

**IN THE SUPREME COURT OF FLORIDA  
BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

CASE NO. SC13-1333

INQUIRY CONCERNING A JUDGE  
NO. 12-613

RE: LAURA WATSON

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**NOTICE OF FILING OF COPIES OF LATE PRODUCED DISCOVERY  
AND LATE PRODUCED REDACTIONS BY THE FLORIDA BAR AND  
NOTICE OF JUDGE WATSON'S RESERVATION OF RIGHTS AND  
MOTION FOR STAY**

The Honorable Laura M. Watson, by and through undersigned counsel, hereby provides Notice of Filing of Copies of Late Produced Discovery and Late Produced Redactions by The Florida Bar ("TFB") and moves for a stay of this proceeding and states:

1. On November 15, 2013 Judge Watson served Bar Counsel Ghenete Wright Muir ("Muir") with a Subpoena Duces Tecum ("Subpoena"). A copy of the Subpoena is attached as **Exhibit A**.

2. On April 10, 2015, TFB filed its Supplement to Notice of Discovery of Additional Materials Subject to Subpoena claiming in paragraph 4 of said notice that the "results of the comprehensive analysis have been completed." Yet, to this point, it appears that TFB *has not produced* emails of individuals who were acting

on the TFB's behalf (but whose emails are not preserved or maintained by TFB), including but not limited to: John J. White, Esq; Eugene Pettis, Esq.; Greg Coleman, Esq.; Jay Cohen, Esq.; Adele Stone, Esq.; David Rothman, Esq.; and Jeanne Melendez, Esq.

3. Further, TFB has not addressed whether it has been able to recover and review the deleted or misfiled emails referenced by Muir in her deposition on August 12, 2014 in the case of The Florida Bar v. Charles Jay Kane, Supreme Court Case No. SC13-388 and The Florida Bar v. Harley Nathan Kane, Supreme Court Case No. SC13-389.

4. In Exhibit A to the TFB's Supplement to Notice, TFB's counsel, Jill Griset, also indicates that TFB's review of all documents potentially responsive to the Subpoena *is not complete*. Specifically, in footnote one, Ms. Griset states "We are also performing quality control procedures on a small number of documents dated on or before January 17, 2014 and if we find additional documents that are not privileged and responsive to the Subpoena, we will produce them."

5. On April 10, 2015, counsel was provided with copies of the additional materials subject to Subpoena.

6. A sample of the previously withheld materials, (the “Withheld Emails”), is scheduled herein and attached as **Composite Exhibit B**. (TFB 3339, 3340, 4740-4759, 4845, 4857-4862, 4865, 4869-4871, 4875-4875, 4878, 4879, 4914, 5193, 5976, 6157-6163, 6172-6173, 6185, 6189, 6205, 6233, 6238, 6249, 6252, 8845, 8848, 8851-8852 and 8854).

7. For comparison purposes, the schedule of documents originally produced by TFB in response to the Subpoena is attached as **Composite Exhibit C**.<sup>1</sup>

8. In January 2014, the Bar provided undersigned counsel with an Assertion of Privilege by TFB regarding its original production to the Subpoena. A copy is attached as **Exhibit D**.

9. In its April 10, 2015 production (14 months after the Final Hearing), TFB now seeks additional redaction and invocation of privilege. A schedule of these redactions is included and copies are attached as **Composite Exhibit E**. (TFB 4740, 4837, 4864, 4869, 4872, 4891, 4895, 4914, 5218, 6164, 6184, 6188, 6189, 6216, 6217, 6282).

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<sup>1</sup> Exhibit B to the Bar’s April 10, 2015 filing contains the same schedule.

**JUDGE WATSON’S RESERVATION OF RIGHTS AND MOTION  
FOR STAY**

10. Undersigned counsel is awaiting moving this Court for review of the newly asserted privileged documents until TFB completes its investigation into whether any additional documents that were responsive to the Subpoena remain outstanding. In the meantime, Judge Watson moves this Court for a stay of the proceeding and requests that this Court take notice of crucial record facts.

11. The complaint was filed with the JQC by William Hearon, Esquire (“Hearon”) and Larry Stewart, Esquire (“Stewart”) on November 20, 2012 (Tab 43 to Original Bar Production).

12. Hearon did not produce any of the “Withheld Emails” at his deposition in this cause. Hearon did not disclose his extensive lobbying of TFB and Bar President, John J. White, Esquire (“White”) in 2008 and 2009. (TFB 6185, 6189, 6205, 6233 and 6238). Mr. White became a member of the JQC and served on Judge Watson’s JQC Investigative Panel in 2013. Hearon was aware of his lobbying and also clearly knew that White was a member of Judge Watson’s JQC panel and that he and Stewart were the complainants to the JQC.

13. Stewart did not produce any of the “Withheld Emails” at his deposition or at the final hearing in this cause. Stewart also failed to disclose his law firm’s lobbying of TFB and White, as demonstrated in the Withheld Emails.

14. On December 26, 2012, TFB wrote the JQC and forwarded its files to the JQC as “the public records” regarding Laura Watson. (Tab 44 Original Bar Production).

15. Examination of the recent TFB production and the previous JQC production reveals that TFB withheld the 2008/2009 Hearon emails to TFB and White. (TFB 6185, 6189, 6205, 6233 and 6238 and JQC Production 00001-02614 starting at 01429). It also failed to assert privilege as to emails exchanged between Mr. White and TFB until the recent production. (TFB 6184).

16. These same emails, revealing the Stewart firm’s lobbying of TFB and White, were not produced by Muir or TFB pursuant to the Subpoena served by Judge Watson in this cause. The subject emails were not listed on the TFB’s previously provided privilege log. Muir and TFB failed to ever disclose that JQC member White had been lobbied by the JQC complainants.

17. In its Motion to Quash Deposition Subpoena Duces Tecum and for Protective Order, TFB and Bar Counsel, Muir, stated: “Bar Counsel has absolutely

no non-privileged information regarding this matter that would in any way be relevant at the upcoming JQC hearing against Respondent and which has not already been provided to Respondent.”

18. At the hearing on the Motion to Quash, Bar counsel, Henry M. Coxé, Esquire (“Coxé”) stated to the JQC Chair:

I don’t think it is self-serving – that we were making the decision coming down in favor of Mr. Sweetapple, when in doubt we would give them to Mr. Sweetapple. It included every email communication to the Florida Bar from Mr. Stewart or other persons in Mr. Stewart’s office that related to Judge Watson. It included everything that Judge Watson would have been entitled to had she still been a lawyer and defending against the Bar accusations.

Tr. of Hr’g on January 17, 2014, p.49-50.

Coxé further argued, “There is nothing in the universe that the Florida Bar essentially has that relates to Judge Watson that hasn’t been produced.” Id. at 53.

19. The Withheld Emails reveal that Stewart drafted a substantial portion of the Bar Complaint against Judge Watson’s husband in January of 2013. Though TFB never filed a formal complaint against Judge Watson, the improperly Withheld Emails reveal that the Bar Complaint was then finalized and signed by

Muir, Alan Anthony Pascal, Esq., and Kenneth Lawrence Marvin, Esq. (TFB 4740-4758).

20. TFB argues, and the JQC found, that TFB's file was transferred to the JQC for prosecution because TFB lost jurisdiction over Judge Watson when she was elected a circuit court judge. This appears to be contradicted by the Motion to Quash filed by TFB (Filing # 9126100), which states in paragraph 5, "The Florida Bar disciplinary proceeding pending against Respondent was placed on a monitor status and remains so, so long as Respondent serves on the bench."

21. The TFB argument and JQC finding also appears contradicted by the transmission letter dated December 26, 2012 (Tab 44 Original Bar Production).

22. The JQC reports that its factual findings were based on its independent review of evidence, observations, and credibility determinations of the witnesses, which met the clear and convincing burden of proof. Pages containing Stewart's testimony are referenced by the JQC in its Report and Recommendations more than 50 times.

23. It is not surprising that Stewart's testimony concerning the 2002-2004 lawyer dispute was found credible, given the fact that he effectively *wrote the Bar*

*complaint against Judge Watson and therefore was doing nothing more than simply repeating his testimony on the matter.*

24. TFB offers no explanation for its conduct or any apology for curtailing Judge Watson's Due Process rights. Instead, in the conclusion to TFB's Response to Judge Watson's Notice of Direct Criminal Contempt by The Florida Bar And Judicial Qualifications Commission (Coxe, McGrane and Muir) filed April 10, 2015, the Florida Bar claims that emails from Stewart (or anyone else for that matter directed to the Bar) were immaterial to the JQC's finding of misconduct. Thus, TFB takes no responsibility and pretends that its conduct is acceptable.

25. The Withheld Emails reveal that Stewart drafted official complaints, memos and briefs for TFB. He directed the entire Bar narrative which was then echoed and adopted by the JQC. Judge Watson did not have this discovery or any similar material available to cross-examine Stewart. The Bar states the documents are duplicative and merely show that Stewart "aggressively interacted with the Bar". Stewart actually stepped into the shoes of TFB and also appears to have exerted significant influence over the JQC and its counsel.



26. The JQC produced no emails from Stewart to McGrane. Stewart only produced a handful of these emails. Judge Watson reasonably suspects that Stewart lobbied McGrane and the JQC in the same improper manner now disclosed.

27. Undersigned counsel wrote to Bar Counsel, Coxe, on February 22, 2015 suggesting that it would be appropriate for TFB to seek a stay of this proceeding pending its investigation. A copy of the letter is attached as **Exhibit F**. To date, there has been no response provided to the letter.

28. Judge Watson has been the victim of an egregious denial of her Due Process right to take full discovery and to confront the only adverse witness in this proceeding with such discovery. Judge Watson reserves all rights pending TFB's full compliance with the subpoena served November 15, 2013. Judge Watson respectfully requests a stay of this proceeding pending TFB's full compliance with the subpoena and this Court's review and adjudication of TFB's newly asserted claims of privilege.

Respectfully submitted,

SWEETAPPLE, BROEKER & VARKAS, PL  
20 SE 3<sup>rd</sup> Street  
Boca Raton, Florida 33432  
Telephone: (561) 392-1230  
E-Mail: pleadings@sweetapplelaw.com

By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via the E-Filing Portal on this 21<sup>st</sup> day of April, 2015 to: Marvin E. Barkin, Esquire, and Lansing C. Scriven, Esquire, Special Counsel for the JQC, Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis, P.A. 101 East Kennedy Boulevard, Suite 2700, Tampa, Florida 33602 (Email: mbarkin@trenam.com; lscriven@trenam.com); Henry M. Coxe, III, Esquire, Bedell, Dittmar, DeVault, Pillans & Coxe, P.A. Attorney for Florida Bar, 101 East Adams Street, Jacksonville, Florida 32202 (Telephone: 904-353-0211; E-Mail: hmc@bedellfirm.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Ross & Girtten, 9130 South Dadeland Boulevard, Suite

1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel to the JQC, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridajqc.com); David B. Rothman, Esquire, Rothman & Associates, P.A., Special Counsel to the Florida Bar, 200 S. Biscayne Blvd, Suite 2770, Miami, Florida 33313 (Email: dbr@rothmanlawyers.com); Ghenette Wright Muir, Esquire, Bar Counsel, The Florida Bar, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323 (Email: gwrightmuir@flabar.org); Alan Anthony Pascal, Esquire, Bar Counsel, The Florida Bar, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323 (Email: apascal@flabar.org); Adria Quintela, Esquire, Staff Counsel The Florida Bar, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323 (Email: aquintela@flabar.org).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: /S/ Robert A. Sweetapple  
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

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SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613  
LAURA M. WATSON

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**SUBPOENA FOR VIDEOTAPED DEPOSITION DUCES TECUM OF NON-PARTY**

To: Ghenete Wright Muir, Esquire  
The Florida Bar  
1300 Concord Terrace, Suite 130  
Sunrise, Florida 33323

**YOU ARE COMMANDED** to appear before a person authorized by law to take depositions at the office of United Reporting, Inc. 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), on **Thursday, December 5, 2013, at 1:00 p.m.**, before United Reporting, Inc., Notary Public, State of Florida at Large, or any other officer authorized by law for the taking of your videotaped deposition.

If you fail to:

- 1) appear as specified; or
- 2) object to this subpoena,

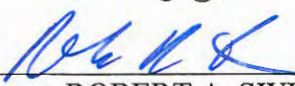
you may be in contempt of court. You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as directed.

**DATED** on November 12<sup>th</sup>, 2013

LAW OFFICES OF SWEETAPPLE, BROEKER & VARKAS, P.L.  
165 EAST BOCA RATON ROAD, BOCA RATON, FLORIDA 33432-3911

**Exhibit A**

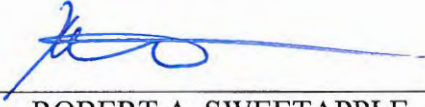
FOR THE COURT  
SWEETAPPLE, BROEKER & VARKAS  
Co-counsel for Judge Watson  
165 East Boca Raton Road  
Boca Raton, Florida 33432-3911  
Telephone: (561) 392-1230  
Email: Pleadings@sweetapplelaw.com

By:   
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12 day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17<sup>th</sup> Judicial Circuit, Room 1005B, 201 SE 6<sup>th</sup> Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridajqc.com; bkennerly@floridajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By:   
ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

---

SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613  
LAURA M. WATSON

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**NOTICE OF TAKING VIDEOTAPED DEPOSITION DUCES TECUM OF NON-PARTY**

**PLEASE TAKE NOTICE** that the undersigned attorney will take the videotaped deposition of the below named person at United Reporting, Inc., 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), upon oral examination before United Reporting, Inc., Notary Public or officer authorized by law to take depositions in the State of Florida.

**Name:** Ghenete Wright Muir, Esquire

**Date:** Thursday, December 5, 2013

**Time:** 1:00 p.m.

The oral examination will continue from day to day until completed. The deposition is being taken pursuant to the Rules of Civil Procedure.

**Deponent is directed to bring with her the documents outlined in Schedule "A" attached hereto.**

|   |
|---|
| <p>In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding shall contact the undersigned attorney at (561) 392-1230 no later than seven days prior to the proceedings; for hearing impaired, telephone 1-800-955-8771 (TDD), via Florida Relay Service.</p> |
|---|

SWEETAPPLE, BROEKER & VARKAS, PL  
Co-counsel for Judge Watson  
165 East Boca Raton Road  
Boca Raton, Florida 33432-3911  
Telephone: (561) 392-1230  
Email: Pleadings@sweetapplelaw.com

By: 

ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12<sup>th</sup> day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17<sup>th</sup> Judicial Circuit, Room 1005B, 201 SE 6<sup>th</sup> Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridaajqc.com; bkennerly@floridaajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 

ROBERT A. SWEETAPPLE  
Florida Bar No. 0296988

**JUDGE LAURA M. WATSON'S SCHEDULE "A" TO VIDEO SUBPOENA DUCES  
TECUM**

**DEFINITIONS AND INSTRUCTIONS**

1. **"Documents"** means any tangible thing, recording or reproduction in any manner, any visual or auditory data in your possession, including without limiting the generality of its meaning, correspondence, memoranda, transcripts, stenographic or handwritten notes, telegrams or telexes, letters, reports, graphs or charts, ledgers, invoices, diaries or calendars, minute books, meeting minutes, computer print-outs, prospectuses, financial statements, annual, quarterly or other filings with any governmental agency or department, annual reports (including schedules thereto), statistical studies, articles appearing in publications, press releases, video or audio tapes, computer data bases, hard drives, storage tapes or disks, all e-mail data, and any papers on which words have been written, printed, typed or otherwise affixed, and shall mean every copy of every document where such copy is not an identical copy of an original (whether different from the original by reason of any notation made on such copy or any other reason).

2. The term **"correspondence"** refers to any **"documents"** as that term is defined above, that have been exchanged from one person or entity to another person or entity or which were intended to be exchanged or prepared in order to be so communicated from one person or entity to another, whether or not such correspondence was actually exchanged, mailed or posted.

3. To the extent not clarified above, this request for production specifically includes **"electronic communications"** which includes electronic mail messages (e-mail), text messages, and other electronic communications, which may or may not be reduced to hard copy in the normal



course of business and which may be stored or archived on file servers, hard or floppy disks or diskettes, back-up tapes, or other storage media.

4. If any of these documents cannot be produced in full, produce them to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion.

5. As used herein, the words "**pertain(s) to**" or "**mentions**" shall mean: relates to, refers to, contains, concerns, describes, mentions, constitutes, supports, corroborates, demonstrates, proves, evidence, refutes, disputes, rebuts, controverts and/or contradicts.

6. Judge Laura M. Watson's Exhibit List is attached as **Exhibit "A"**.

7. Pursuant to Florida Rules of Civil Procedure 1.280(5), regarding **claims of privilege**, for each document responsive to these requests which is withheld under any claim of attorney-client privilege or work product privilege, provide a statement by a person having knowledge setting forth as to each document:

- (a) Name and title of the author(s);
- (b) The name and title of each person to whom the document was addressed;
- (c) The name and title of each person to whom a copy of the document was sent;
- (d) The date of the document;
- (e) The number of pages;
- (f) A brief description of the nature and subject matter of the document;
- (g) The nature of the claimed privilege;
- (h) The category or categories of this request to which the document is responsive; and

- (i) The exact location of the original and each copy as of the date of the receipt of this request.

Pursuant to rule a “ the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.” Florida Rules of Civil Procedure 1.280(5).

8. The term “**interested persons**” means the following individuals:

- All persons listed on Judge Laura M. Watson’s Exhibit List attached as **Exhibit “A”** or any of their employees or associates.
- Miles A. McGrane, III or any person who is employed by or a partner at The McGrane Law firm.
- Any member of the JQC, i.e., Ricardo Morales, III, Hon. Kerry I. Evander, Alan B. Bookman, Shirlee P. Bowne, Michelle K. Cummings, Mayanne Downs, Harry R. Duncanson, Hon. Thomas B. Freeman, Hon. Krista Marx, Steven R. Maxwell, Hon. Michelle T. Morley, Hon. Robert Morris, Jerome S. Osteryoung, Hona. James A. Ruth, John G. White, III, Brooke S. Kennerly, Michael L. Schneider, including retirees, i.e., Preston Silvernail and Paul Backman.
- Any partner at the firm of Klein Glasser Park Lowe & Pelstring, PL, Mark J. Sullivan, Esq. or any person who is employed by or a partner at that firm.
- Lauri Waldman Ross or any person who is employed by or is a partner at the firm Ross & Girten.

9. The term "**Insurance Companies**" means: Allstate Insurance Company; United Automobile Insurance; USAA Insurance Company; GEICO; Progressive Insurance; State Farm Insurance; Liberty Mutual; First Mercury Insurance and any of these insurance companies' subsidiaries or affiliates.

10. "**Attorney's Fees Litigation**" means the lawsuit which was brought in the 15<sup>th</sup> Judicial Circuit in Palm Beach County, Florida, in the case of Stewart, Tilghman, Fox and Bianchi P.A., William C. Hearon, P.A., and Todd S. Stewart, P.A., versus Kane and Kane, Laura M. Watson, P.A. et al., Case No. 502004 CA 006138 XXXX MBAO.

11. "**Grievance Complaint**" means the 2008 Grievance Complaint filed by Larry Stewart and William Hearon or any other person with the Florida Bar against Laura M. Watson and/or Laura M. Watson, P.A. which "**pertain(s) to**" or "**mentions**" Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012.

12. The "**Stewart Law Firm**" means the law firm of Stewart, Tilghman, Fox and Bianchi P.A. or any of the firm's associates or employees.

13. The "**Hearon Law Firm**" means the law firm of William C. Hearon, P.A. or any of the firm's associates or employees.

14. The "**Todd S. Stewart Law Firm**" means the law firm of Todd S. Stewart, P.A. or any other subsequent name changes or new law firms wherein Todd S. Stewart, Esq. is a partner or associate.

15. Unless otherwise specified, all time frames shall be from 1/1/2008 to date of production.

**DOCUMENTS REQUESTED**

1. A copy of the Complaint and your complete file which **"pertain(s) to" or "mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012. This request includes all affidavits of witnesses in the Florida Bar's possession at the time of the probable cause finding and any and all **"documents"** which were provided to the **"interested persons"**.
2. Any and all **"documents"** as defined above, between any you or any other Florida Bar Grievance Committee member or **"interested persons"** as defined above, that **"pertain(s) to" or "mentions"** Laura Watson from 2008 through the date of production.
3. Any **"documents" "correspondence" or "electronic communications"** that **"pertain(s) to" or "mentions"** Laura Watson or Laura M. Watson d/b/a Watson and Lentner between the Florida Bar and the Florida JQC member identified above from May 1, 2012 through the present.
4. Copies of any **"documents" "correspondence" or "electronic communications"** between you and any **"interested persons"** as defined above regarding the prospects for your personal employment.
5. A copy of transcripts of testimony of witnesses or affidavits which **"pertain(s) to" or "mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause by the Florida Bar in October 2012.
6. A copy of all meeting minutes, meeting books, stenographic or handwritten notes which **"pertain(s) to" or "mentions"** Laura M. Watson which reflects the votes of the Bar Grievance Committee individually on each and every numbered allegation in the probable cause finding.

7. Phone records which reflect conversations with any of the **“interested persons”** from 1/1/2008 to the date of production.
8. All Complaints of **“interested persons”** in the Florida Bar’s possession at the time of the probable cause hearing.

RECEIVED, 9/16/2013 17:23:44, Thomas D. Hall, Clerk, Supreme Court

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION  
STATE OF FLORIDA

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SC13-1333

INQUIRY CONCERNING A JUDGE No. 12-613

LAURA M. WATSON

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**JUDGE LAURA M. WATSON'S NOTICE OF FILING PRELIMINARY  
WITNESS LIST PURSUANT TO ORDER ON STATUS CONFERENCE  
AND MOTION FOR ENLARGEMENT OF TIME TO FILE RULE 25  
AFFIDAVITS TO DISQUALIFY MEMBERS OF THE HEARING PANEL  
AND DEMAND FOR DISCLOSURES**

Pursuant to the August 26, 2013 Order on status Conference, Judge Watson serves her preliminary witness list below. Pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses in this cause.

**WITNESSES WHOSE TESTIMONY IS EXPECTED TO BE OFFERED AT  
THE FINAL HEARING**

1. Any and all witnesses list by the JQC.

2. Chris Searcy, Esq.  
Searcy Denny Scarola Barnhart & Shipley P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409
3. John Shipley, Esq.  
Searcy Denny Scarola Barnhart & Shipley P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409
4. Jack Scarola, Esq.  
Searcy Denny Scarola Barnhart & Shipley P.A.  
2139 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409
5. Larry S. Stewart, Esq.  
Stewart Tilghman Fox Bianchi, P.A.  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131
6. Gary D. Fox, Esq.  
Stewart Tilghman Fox Bianchi, P.A.  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131
7. David W. Bianchi, Esq.  
Stewart Tilghman Fox Bianchi, P.A.  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131

8. James B. Tilghman, Esq.  
Stewart Tilghman Fox Bianchi, P.A.  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131
9. Eileen Tilghman Moss, Esq.  
Shook Hardy and Bacon LLP  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131
10. Ed Moss, Esq.  
Shook Hardy and Bacon LLP  
1 S.E. Third Avenue, Ste. 3000  
Miami, FL 33131
11. Todd S. Stewart, Esq.  
The Law Offices of Todd S. Stewart, P.A.  
824 W. Indiantown, Rd.  
Jupiter, FL 33458-7566
12. Gerald Stashak, M.D.  
Gerald Stashak M.D.  
1411 N. Flagler Drive  
West Palm Beach, FL 33401
13. The Honorable David Franklin Crow  
Circuit Court, 15<sup>th</sup> Judicial Circuit  
West Palm Beach, FL 33401
14. Rutledge R. Liles, Esq.  
Liles Gavin & George, P.A.  
225 Water Street, Ste. 1500  
Jacksonville, FL 32202-5145



15. J . Michael Burman, Esq.  
Burman, Critton, Luttier & Coleman  
515 N. Flagler Drive, Suite 400  
West Palm Beach, FL 33401
16. Richard Parrillo, Jr.  
United Automobile Insurance Company  
3909 N.E. 163 Street, #304  
North Miami, FL 33160
17. Jennifer C. Erdelyi, Esq,  
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.  
100 SE 3<sup>rd</sup> Ave.  
Ft. Lauderdale, FL 33394
18. Maurice Abate, Esq.  
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.  
100 SE 3<sup>rd</sup> Ave.  
Ft. Lauderdale, FL 33394
19. Herb Stettin, Esq.  
5401 Hammock Dr.  
Coral Gables, FL 33156
20. Larry Kopelman, Esq.  
Kopelowitz Ostrow Wieselberg Keechl  
200 SW 1<sup>st</sup> Avenue, 12<sup>th</sup> Floor  
Fort Lauderdale, FL 33301
21. Fran Anania, Esq.  
Anania, Bandklayer Blackwell Baumbarten & Tornicella  
100 SE 2<sup>nd</sup> Street, Ste. 3350  
Miami, FL 33131

22. Judith W. Levine, Esq.  
9105 NW 25<sup>th</sup> Street  
Doral, FL 33172-1500
23. Don McKeever  
807 W. Morse Blvd.  
Winter Park, FL 32789
24. Elizabeth Walker Finizio, Esq.  
Finizio & Finizio  
106 SE 9<sup>th</sup> Street  
Fort Lauderdale, FL 33316
25. Scott Jason Wieselberg, Esq.  
Kopelowitz Ostrow Wieselberg Keechl  
200 SW 1<sup>st</sup> Avenue, 12<sup>th</sup> Floor  
Fort Lauderdale, FL 33301
26. Mindy Elizabeth Jones, Esq.  
Coast to Coast Legal Aid Services  
P.O. Box 120970  
Fort Lauderdale, FL 33301
27. Marcia Bour  
Cypress Financial Center, Suite 900  
5900 North Andrews Avenue  
Fort Lauderdale, Florida 33309
28. Jane Hill Quinn  
Cypress Financial Center, Suite 900  
5900 North Andrews Avenue  
Fort Lauderdale, Florida 33309

29. Cherrie Smith Valbrun, Esq.  
Kim Vaughn Lerner LLP  
One Financial Plaza  
100 SE 3rd<sup>1</sup> Avenue, Ste. 2001  
Fort Lauderdale, FL 33394-0008
30. Dr. Susan Davis  
Cypress Financial Center, Suite 900  
5900 North Andrews Avenue  
Fort Lauderdale, Florida 33309
31. Julio Gonzalez, Esq.  
2650 W. State Road 84, Ste. 100  
Fort Lauderdale, FL 33312-4882
32. Irwin R. Gilbert, Esq  
11382 Prosperity Gardens, Ste. 222-223F  
Palm Beach Gardens, FL 33410
33. Peter R. Goldman, Esq.  
Broad & Cassel  
P.O. Box 14010  
Fort Lauderdale, FL 33302
34. John P. Seiler, Esq.  
2850 N. Andrews Ave.  
Wilton Manors, FL 33311
35. John R. Beranek, Esq.  
P.O. Box 391  
Tallahassee, FL 32302

36. Richard Zaden, Esq.  
2850 N. Andrews Ave.  
Wilton Manors, FL 33311
37. Alan Anthony Pascal, Esq.  
Cypress Financial Center, Suite 900  
5900 North Andrews Avenue  
Fort Lauderdale, Florida 33309
38. Ghenete Elaine Wright Muir, Esq.  
Cypress Financial Center, Suite 900  
5900 North Andrews Avenue  
Fort Lauderdale, Florida 33309
39. Debra Shaeffer Bilodeau  
Total Orthopedic Care  
4850 W. Oakland Park Blvd., Suite 201  
Lauderdale Lakes, FL
40. Steven Cimerberg, DO  
10063 Cleary Blvd.  
Plantation, FL 33424
41. Eric Fishman, MD  
Eric Fishman MD PA  
1411 N. Flagler Drive  
West Palm Beach, FL 33401
42. Craig Lichtblau, MD  
550 Northlake Blvd.  
West Palm Beach, FL
43. Alan Mandell, DC  
Mandell Chiropractic Center  
20334 NW 2<sup>nd</sup> Avenue  
Miami, FL

44. Peggy Mullen  
Palm Beach Orthopedic Associates  
603 Village Blvd., Suite 300  
West Palm Beach, FL
45. Amir Fleischer, Esq.  
Marks & Fleischer  
303 SW 6th St.  
Ft. Lauderdale, FL 33315
46. Gary Marks, Esq.  
Marks & Fleischer  
303 SW 6<sup>th</sup> St.  
Ft. Lauderdale, FL 33315
47. Richard Woulfe, Esq.  
100 SE Third Avenue, Suite 900  
Ft. Lauderdale, FL 33303
48. Diego Asenco, Esq.  
636 US Highway 1, Suite 115  
North Palm Beach, FL 33408
49. Michael Rosenberg, DO  
Boca Orthopedic & Rehabilitation Center, Inc.  
7015 Beracasa Way  
Boca Raton, FL 33433
50. Alan Shaff, DC  
4801 Linton Blvd., Suite 9A  
Delray Beach, FL 33445
51. Gerald Stashak, MD  
1411 N. Flagler Drive, Suite 8800  
West Palm Beach, FL 33401

52. Michael Koonin MD; Stephen Wender MD; Barry Silverman MD  
Silverman, Wender, Koonin, Epstein & Rozencwaig, PA f/k/a  
Silverman, Wender, Koonin, Epstein, PA f/k/a  
Silverman Seley Wender Koonin & Chaplin, PA d/b/a  
Aventura Orthopedic Care Center  
21000 NE 28<sup>th</sup> Avenue  
North Miami Beach, FL
53. Dr. Joseph Lee  
Elizabeth lee  
Lee Chiropractic Clinic, Inc.  
1920 S. 14<sup>th</sup> Street  
Fernandina Beach, FL
54. Abrham K. Kohl, MD  
d/b/a Kohl Chiropractic Clinic  
10830 Pines Blvd.  
Pembroke Pines, FL
55. Michael P. Newman, DC  
Michael P. Newman, DC PA f/d/b/a  
South Miami Medical Arts Center, Inc.  
9420 SW 77<sup>th</sup> Avenue, Suite 100  
Miami, FL
56. William Cox MD  
W. Kevin Cox MD  
William Bott MD  
Jose Torres MD  
Gilmer, Cos, Schwab & Bott Orthopaedic Association, PA  
596 Ocoee Commerce Parkway  
Ocoee, FL
57. Gregg Rosen MD  
Family Chiropractic Health Center, Inc.  
1716 W. Colonial Drive  
Orlando, FL

- 58. Michael Feanny MD  
Babak Sheikh MD  
MA Hajlanpour  
Total Orthopaedic Care PA  
4850 W. Oakland Park Blvd., Suite 201  
Lauderdale Lakes, FL
- 59. Peter-John Rhoden, Massage Therapist  
Natural Healthcare Clinic, Inc.  
2713 Andrews Avenue, #7  
Wilton Manors, FL
- 60. Martin Monahan, DC  
Bonnie Monahan, Physical Therapist Assistant  
Clark Monahan DC  
St. Augustine Physicians Associates, Inc.  
419 Anastasia Blvd.  
St. Augustine, FL
- 61. Kenneth Williams, DC  
107 Baybridge Dr.  
Gulf Breeze, FL
- 62. Warren Grossman MD  
Richard Strain MD  
Steven Steinlauf MD  
Orthopaedic Associates of South Broward  
1150 North 35<sup>th</sup> Avenue  
Hollywood, FL
- 63. Jose Garcia DC  
Jose Garcia DC PA  
12323 Mustard St.  
Orlando, FL

64. Ronald Drucker, DC  
Broward Chiropractic Center  
3194 W. Commercial Blvd.  
Ft. Lauderdale, FL
65. David Seidner, DC  
David Seidner PT DC d/b/a  
Physical Therapy Associates of South Florida PA  
9800 W. Atlantic Blvd.  
Coral Springs, FL
66. Michael Minet, DC  
Total Health and Rehab Center, Inc. f/k/a  
Jamnett, Inc.  
23057 State Road 7  
Boca Raton, FL
67. Edward Rivero, Physicians Assistant  
2601 SW 37<sup>th</sup> Avenue  
Miami, FL
68. Phillip Gager, DC d/b/a  
Downstate Chiropractic Center, Inc.  
4507 N. Pine Island Road  
Sunrise, FL
69. Lloyd A. Wright, DC d/b/a  
Lloyd Wright DC PA  
801 W. Granada Blvd., Suite 301  
Ormond Beach, FL
70. Andrew Wasserman DC f/d/b/a  
Wasserman Chiropractic Clinic  
10394 W. Sample Road  
Coral Springs, FL



71. John P. Christensen DC  
John P. Christensen PA MD DC  
3001 Broadway  
West Palm Beach, FL
72. Douglas Kole DC d/b/a  
Kole Chiropractic Center PA  
3220 Cove Bend Drive  
Tampa, FL
73. Daniel J. Pavlik DC  
Access Healthcare, Inc.  
2016 S. Orange Ave.  
Orlando, FL
74. Alex Petro DC  
Acropolis Chiropractic and Sports Medicine PA  
4900 33<sup>rd</sup> Avenue North  
St. Petersburg, FL
75. Harry Mikazans DC  
Mary Tesic  
Cathy Pichillo, Office Manager  
Boca Medical Therapy, Inc.  
470 SW 6<sup>th</sup> Ave.  
Boca Raton, FL
76. Harry Brown DC  
Nancy Brown  
Chiromed Chiropractic Center, Inc.  
750 Mt. Zion Road  
Jonesboro, GA
77. Ralph E. Webb DC d/b/a  
Chiropractic Center of 103<sup>rd</sup> Street  
7628 103<sup>rd</sup> Street, Suite 22  
Jacksonville, FL

78. Steven Warfield DC f/d/b/a  
Lakewood Chiropractic Clinic PA  
North Florida Healthcare, Inc.  
1218 Park Avenue  
Orange Park, FL
79. Darren Lastofsky DC f/d/b/a  
Coral Springs Health and Wellness Center  
2075 N. Powerline Road, Suite 4  
Pompano Beach, FL
80. Paul M. Lombardi DC d/b/a  
Cocoa Chiropractic Center  
111 N. Fiske Blvd.  
Cocoa, FL
81. David A. Mallory DC d/b/a  
Neck, Back and Headache Relief Center  
1033 S. Ridgewood Avenue  
Daytona Beach, FL
82. Penemarie K. Murphy PT  
Penemarie K. Murphy, Inc. d/b/a  
Physical Therapy Services  
7001 Merrill Road  
Jacksonville, FL
83. Gregory Williams DC  
Michele Zakrzewski Cert. DC Assistant  
Medical & Chiropractic Clinic, Inc.  
4601 N. Nebraska Avenue  
Tampa, FL
84. Steven Gaeta DC d/b/a  
Gaeta Chiropractic  
2344 Bee Ridge Road, Suite 110  
Sarasota, FL

85. Timothy E. Johnson DC d/b/a  
Effective Pain Relief  
4021 Central Avenue #C  
St. Petersburg, FL
86. John Upchurch  
125 S. Palmetto Avenue  
Daytona Beach, FL
87. Richard Slawson, Esq.  
Slawson Cunningham Whalen & Gaspari PI  
2401 PGA Blvd., Suite 140  
Palm Beach Gardens, FL
88. John Wilke, Esq.  
7284 W. Palmetto Park Rd., Ste. 306  
Boca Raton, FL 33433-3431
89. Doug Stein, Esq.  
Seipp Flick & Hosley LLP  
2 Alambra Plz. Ste. 800  
Miami, FL 33134-5228
90. Doug Stein, Esq.  
Seipp Flick & Hosley LLP  
2 Alambra Plz. Ste. 800  
Miami, FL 33134-5228
91. Chris L. Kirwan, Esq.  
Kirwan Spellacy Danner, P.A.  
200 S. Andrews.  
Ft. Lauderdale, FL 33301
92. Judge Watson reserves the right to amend this Witness List to add the names and address of additional witnesses not yet known, and whose identities may be discovered prior to the close of discovery in this matter, as well as Expert and

Character witnesses.

WHEREFORE, pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses identified above.

Respectfully submitted,

The Honorable Laura M. Watson  
Circuit Judge, 17<sup>th</sup> Judicial Circuit  
Room 1005B  
201 SE 6<sup>th</sup> Street  
Fort Lauderdale, Florida 33301  
Tel.: (954) 831-6907  
jwatson@17th.flcourts.org

/s/ Laura M. Watson  
LAURA M. WATSON  
Florida Bar No.: 476330

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email to: Miles A. McGrane, III, Esq. [miles@mcgranelaw.com](mailto:miles@mcgranelaw.com) [lisa@mcgranelaw.com](mailto:lisa@mcgranelaw.com) The McGrane Law Firm, Special Counsel, One Datran

Center, Ste. 1500, 9100 South Dadeland Boulevard, Miami, Florida 333156; Lauri Waldman Ross, Esq. [RossGirten@Laurilaw.com](mailto:RossGirten@Laurilaw.com) Counsel to the Hearing Panel of the JQC, Ste. 1612, 9100 South Dadeland Boulevard, Miami, Florida 333156; Michael L. Schneider, Esq. [mschneider@floridajqc.com](mailto:mschneider@floridajqc.com) General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303, this 16<sup>th</sup> day of September, 2013.

Pursuant to FJQCR Rule 10(b) a copy is furnished by email to: The Honorable Kerry I. Evander, [evanderk@flcourts.org](mailto:evanderk@flcourts.org), Chair of the JQC, 300 S. Beach Street, Daytona Beach, FL 32114.

/s/ Laura M. Watson  
LAURA M. WATSON

From: Larry Stewart <lstewart@stfblaw.com>  
To: Ghenete Wright Muir <GWrightMuir@fiabar.org>, "APascal@fiabar.org" <APascal@fiabar.org>  
Cc: "aquintel@fiabar.org" <aquintel@fiabar.org>  
Date: 08/16/2013 04:49 PM  
Subject: Marks and Fleischer M/Limine

---

Thanks for the pleadings. I assume that the M/Limine will be one of the pretrial motions that will be heard on 9/17. I happened to be working on the Watson case today but I have the time so a few comments on the M/Limine.

1. Para # 1 re the Bar is only now moving forward 9 years later. Your files will show that Marks and Fleischer, as well as their cohorts, all demanded that the grievances be held in abeyance pending the appellate process. In fact, when the Bar agreed to do so, we appealed to the Bd of Gvs and I believe they all responded that the Bar was right to delay the proceedings. They should not now be heard to complain about how long it has taken.
2. A small point, in para # 9, they claim that they presented no witnesses at the Judge Crow trial. That is technically correct but you should know that Amir Fleischer testified extensively for the Defendants at the trial.
3. The evidence shows clearly that at all times all 6 PIP lawyers acted in lockstep and in concert, so that the acts of one were the acts of all. (See Final Judgment pp 2 – 11 where Judge Crow describes how they worked together from beginning to end.) In addition, at no time did either Marks or Fleischer object to anything that was being done in their behalf, thus ratifying the conduct. Since the other Defendants' acts were also legally binding on Marks and Fleischer, the Orders describing that conduct is relevant. This is not a situation where the Orders describe only "misconduct of others" – see para 16 – but rather misconduct in which they were actively engaged as a co-actors/co-conspirators.
4. As you know better than I, this is a quasi-administrative proceeding in which the rules of evidence are relaxed so that all relevant evidence is admissible. The arguments at para 13 & 14 do not involve Bar proceedings and those rules do not

strictly apply here.

5. While not res judicata, since they were not parties, it is relevant that two judges who held the same facts albeit in a case involving their co-actors/co-conspirators found the conduct that was committed by them and on their behalf to be extremely unethical.

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Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.



Fw: Extracted Documents for Case File : 200851561  
Ghenete Wright Muir to: Emily Sanchez

03/06/2013 04:12 PM

## Redacted - Privileged

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

----- Forwarded by Ghenete Wright Muir/The Florida Bar on 03/06/2013 04:11 PM -----

From: "Larry Stewart" <lssstewart@stflaw.com>  
To: "Ghenete Wright Muir" <GWrightMuir@flabar.org>  
Cc: <APascal@RajtarAndAssociates.com>, "Emily Sanchez" <EmilySanchez@flabar.org>, "William C. Hearon" <bill@williamhearon.com>  
Date: 01/15/2013 10:47 AM  
Subject: RE: Extracted Documents for Case File: 200851561

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Dear Ghenete: I was able to get this done a little earlier than I anticipated. I am sorry that I couldn't red-line your draft. If I had been able to do that you could have readily seen my suggested changes. Attached is a re-draft of a number of paragraphs. Some merely correct names or times. In that regard my experience is that having a factually correct complaint sends a powerful message to the trial judge. Other changes involve the sequence of events. Still others go to the substance of the facts. In the case of Lentner, para 10 adds what I think is an important fact that was not in the original draft. As you will also see I added a couple of para. containing suggested language that is unique to the other Respondents. What is attached is factually correct version of the events that can be proven from the vast collection of documents that we used in our litigation. There are a few other typos that we can discuss when we talk.

I am in a clinic all this week but can be available any morning from 9am to 10 am your time to discuss this re-draft. I assume you will want a day or so to review the attached. Let me know when you would like to discuss my suggested



changes/corrections. Complaint changes.docx



1. NO CHANGE

2. NO CHANGE

3. Prior to 2002 the firms of Marks & Fleischer, P.A., Kane & Kane, and Laura M. Watson, P.A. d/b/a Watson and Lentner, acting respectively by and through the firm principals Gary Marks, Amir Fleischer, Charles Kane, Harley Kane, Laura Watson and the Respondent, Darin James Lentner, (hereinafter referred to collectively as the "PIP claim attorneys") represented healthcare provider clients in numerous lawsuits against various Progressive Insurance Companies (hereinafter referred to as "Progressive") regarding Personal Injury Protection claims (hereinafter referred to as "PIP claims").

4. The PIP claim attorneys pooled their resources and solicited healthcare providers throughout Florida. By 2002 the PIP claim attorneys collectively had approximately 440 healthcare provider clients who had some 2500 PIP claims for unpaid bills and associated attorneys' fees against Progressive.

5. By 2002 the PIP claim attorneys, including Respondent, decided to pursue bad faith claims against Progressive in addition to the PIP claims.

6. In the beginning of 2002 the PIP claim attorneys hired Stewart Tilghman Fox & Bianchi, P.A., William C. Hearon, P.A. and Todd S. Stewart, P.A. (hereinafter referred to as the "bad faith claim attorneys") to handle the bad faith claims.

7. NO CHANGE

8. NO CHANGE

9. Initially the Goldcoast case encompassed a core group of approximately 40 healthcare providers. It was contemplated that bad faith claims would ultimately be asserted on behalf of all of the clients of the PIP claim attorneys. In the course of said litigation the PIP claim attorneys provided the bad faith claim attorneys with a list of 441 healthcare provider clients with either perfected or to be perfected bad faith claims and then approved a master claim list of said clients to be used in settlement negotiations with Progressive.

10. [FOR JUST THE LENTNER COMPLAINT] During the pendency of the Goldcoast litigation, the firm of Watson & Lentner, acting by and through Respondent and Laura M. Watson, entered into a secret side agreement with one client, to wit: Goldcoast Orthopedics, by which said client was promised 50 percent of the proceeds of the Goldcoast litigation. Said agreement was not disclosed to the bad faith claim attorneys or to any of the other healthcare provider clients. There was no client permission or consent for the conflict of interest created by said agreement.

11. DELETE AS NOW COVERED IN PARA 9.

12. The bad faith claim attorneys worked diligently on the Goldcoast litigation and the bad faith claims for approximately two years, successfully obtaining favorable rulings requiring discovery disclosures by Progressive which significantly strengthened the case. Specifically, the bad faith claim attorneys obtained a ruling requiring Progressive to produce damaging internal records. This ruling provided leverage for settlement negotiations with Progressive.

13. DELETE AS NOW INCORPORATED IN PARA 12.

14. In January 2004 the bad faith claim attorneys commenced settlement negotiations with Progressive which continued for the next several months. The PIP claim attorneys were periodically updated on the progress those negotiations. In May 2004 the PIP claim attorneys secretly met with Progressive and settled all claims without notice to the bad faith attorneys. The settlement was an aggregate settlement of \$14.5 million dollars for all PIP claims and all existing or future bad faith claims of all 441 healthcare provider clients and it was agreed to by the PIP claim attorneys without prior notice to or fully informed consent from the clients. The methodology used by the PIP claim attorneys was intended to maximize their attorneys' fees at the expense of the clients and the bar faith claim attorneys.

15. . To record the settlement the PIP claim attorneys met with the Progressive attorneys and drafted a Memorandum of Understanding (hereinafter referred to as "MOU") which documented that all of the healthcare providers' PIP and bad faith claims, whether filed, perfected or just potential, were settled for the undifferentiated amount of \$14.5 million dollars.

16. The secret settlement agreement between the PIP claim attorneys and Progressive failed to allocate any monies to the bad faith claims, although the clients were expected to release such claims.

17. After learning of the settlement and discovering that no monies had been allocated to the bad faith claims, the bad faith claim attorneys protested the MOU.

18. Thereafter, the PIP claim attorneys drafted an Amendment to the MOU and arbitrarily allocated \$1.75 million dollars of the total settlement towards the settlement of the bad faith claims of the Goldcoast plaintiffs.

19. Again, no monies were allocated to the bad faith claims of the approximately 400 clients who were not included in the Goldcoast case, although those claims would have to be released as part of the settlement.

20. To consummate the settlement the PIP claim attorneys prepared false and misleading letters addressed to the healthcare provider clients. The letters did not disclose the several conflicts of interest inherent in the settlement, did not provide the clients a closing statement and did not advise the clients of the material facts necessary to an informed decision about the case or execution of the releases.

21. NO CHANGE

22. Once the PIP attorneys received the settlement proceeds on June 22, 2004, without cause they discharged the bad faith claim attorneys, entered a notice of appearance in the Goldcoast litigation as attorneys for the bad faith claimants and dismissed that case with prejudice.

23. The bad faith claim attorneys filed suit against the PIP attorneys and sought injunctive relief to prevent the PIP attorneys from disbursing the settlement proceeds from Progressive.

24. FORMER PARA 25 AS TO WHICH THERE IS NO CHANGE

25. When the bad faith claim attorneys learned the particulars of the secret settlement they also notified Respondent and the other PIP claim attorneys

that in accordance with the Florida Bar rules governing claims of disputed ownership of property, all of the attorneys' fees should be held in escrow.

26. NO CHANGE

27. DELETE AS NOW INCORPORATED IN PRAR 23

28. [FOR JUST THE MARKS & FLEISCHER COMPLAINT] During the pendency of the case against the PIP claim attorneys, the bad faith claim attorneys settled their claims against Respondents, Gary Marks and Amir Fleischer.

29. FORMER PARA 28 AS TO WHICH THERE IS NO CHANGE

30. The Final Judgment found in favor of the bad faith claim attorneys and awarded them approximately \$3 million dollars in damages. In so ruling the Court found that the PIP claim attorneys, including Respondent, engaged in ethical misconduct in secretly settling all the claims against Progressive.

31. The Court findings include but are not limited to the following:

a. The methodology used by the PIP claim attorneys in creating said settlement violated a number of rules, including Rules 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.7(c), 4-1.8, 4-1.8(g) and 4-1.4 of the Rules of Professional Conduct.

b. The PIP claim attorneys jointly drafted a letter to the Goldcoast clients that failed to disclose that although nothing was being allocated to the bad faith claims, the settlement included compensation for those claims. The letter also failed to disclose the amount of the settlement, the amount of the attorneys' fees being taken or the value of the bad faith claims being released.

c. Awarding fees only for the Goldcoast case would constitute unjust enrichment of the PIP claim attorneys and would allow the PIP claim attorneys to benefit by the work of the bad faith claim attorneys and reward the improper conduct of the PIP claim attorneys in the manner that they settled the claims.

d. The PIP claim attorneys unfairly deprived the bad faith claim attorneys of a fee by ignoring multiple conflicts of interest, misrepresenting the terms of the settlement to the bad faith claim attorneys, misrepresenting the terms of the settlement to the clients to obtain the releases to trigger payment, manipulating the allocation of the settlement to obtain most of it as attorneys' fees for themselves and by discharging the bad faith claim attorneys for no reason.

32. DELETE AS NOW COVERED IN NEW PARA 36

33. DELETE; DUPLICATIVE OF PARA 31(B)

34. NO CHANGE

35. NO CHANGE

36. The PIP claim attorneys appealed the Final Judgment and the Fourth District Court of Appeal upheld the findings in the Final Judgment. A copy of the appellate decision is attached hereto and made a part hereof as Exhibit B.

37. [FOR JUST THE KANE & KANE COMPLAINT] After the entry of the Final Judgment against them, the Respondents, Charles Kane and Harley, sought bankruptcy protection. In proceedings in the United States Bankruptcy Court, Southern District of Florida, West Palm Beach Division, Respondents, Charles Kane and Harley Kane were not candid with the Court and, in the case of Respondent Harley Kane, fabricated evidence. A copy of the Memorandum Opinion of that Court is attached hereto and made a part hereof as Exhibit C.

38. FORMER PARA 37

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

DARIN JAMES LENTNER,

Respondent.

Supreme Court Case  
No. SC

The Florida Bar File  
No. 2008-51,561(17B)

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**COMPLAINT**

The Florida Bar, complainant, files this Complaint against Darin James Lentner, Respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is, and at all times mentioned in the complaint was, a member of The Florida Bar, admitted on March 25, 1991 and is subject to the jurisdiction of the Supreme Court of Florida.

2. On October 19, 2012, the Seventeenth Judicial Circuit Grievance Committee B found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

3. Prior to 2002, the firms of Marks & Fleischer, P.A., Kane & Kane, and Laura M. Watson, P.A. d/b/a Watson and Lentner, acting respectively by and

through the firm principals Gary Marks, Amir Fleischer, Charles Kane, Harley Kane, Laura Watson and the Respondent, Darin James Lentner, (hereinafter referred to collectively as the "PIP claim attorneys") represented healthcare provider clients in numerous lawsuits against various Progressive Insurance Companies (hereafter referred to as "Progressive") regarding Personal Injury Protection claims (hereinafter referred to as "PIP claims").

4. The PIP claim attorneys pooled their resources and solicited healthcare providers throughout Florida. By 2002, the PIP claim attorneys collectively had approximately 440 healthcare provider clients who had some 2500 PIP claims for unpaid bills and associated attorneys' fees against Progressive.

5. In 2002, the PIP claim attorneys, including Respondent, decided to pursue bad faith claims against Progressive in addition to the PIP claims.

6. In the beginning of 2002, the PIP claim attorneys hired Stewart Tilghman Fox & Bianchi, William C. Hearon, P.A., and Todd S. Stewart, P.A. (hereinafter referred to as the "bad faith claim attorneys") to handle the bad faith claims.

7. Such bad faith claims were filed in the case styled *Fishman & Stashack, MD, P.A., d/b/a Goldcoast Orthopedics, et al., v. Progressive Bayside Insurance Company, et al.*, Case No. CA-01-11649, in the Circuit Court for the

Fifteenth Judicial Circuit, in and for Palm Beach County, Florida (hereinafter referred to as "Goldcoast").

8. The agreement between the PIP claim attorneys and the bad faith claim attorneys was that the contingent fee charged for the bad faith claims would be 40%. It was further agreed by the parties that the bad faith claim attorneys would receive 60% of that fee.

9. Initially the Goldcoast case encompassed a core group of approximately 40 healthcare providers. It was contemplated that bad faith claims would ultimately be asserted on behalf of all of the clients of the PIP claim attorneys.

10. In the course of said litigation, the PIP claim attorneys provided the bad faith claim attorneys with a list of 441 healthcare provider clients with either perfected or to be perfected bad faith claims and then approved a master claim list of said clients to be used in settlement negotiations with Progressive.

11. During the pendency of the Goldcoast litigation, the firm of Watson & Lentner, acting by and through Respondent and Laura M. Watson, entered into a secret side agreement with one client, to wit: Goldcoast Orthopedics, by which said client was promised 50 percent of the proceeds of the Goldcoast litigation. Said agreement was not disclosed to the bad faith claim attorneys or to any of the other



healthcare provider clients. There was no client permission or consent for the conflict of interest created by said agreement.

12. The PIP claim attorneys and the bad faith attorneys worked together on the case for approximately two years.

13. The bad faith claim attorneys successfully obtained favorable rulings requiring disclosure of discovery by Progressive which strengthened the case. Specifically, the bad faith claim attorneys had obtained a ruling requiring Progressive to disclose damaging internal billing records. This ruling provided leverage for resolving all bad faith and PIP claims.

14. In January 2004, the bad faith claim attorneys commenced settlement negotiations with Progressive which continued for the next several months.

15. The PIP claim attorneys were periodically updated on the progress those negotiations.

16. In May 2004, the PIP claim attorneys secretly met with Progressive and settled all claims without notice to the bad faith attorneys.

17. The settlement was an aggregate settlement of \$14.5 million dollars for all PIP claims and all existing or future bad faith claims of all 441 healthcare provider clients and it was agreed to by the PIP claim attorneys without prior notice to or fully informed consent from the clients. The methodology used by the

PIP claim attorneys was intended to maximize their attorneys' fees at the expense of the clients and the bad faith claim attorneys.

18. To record the settlement the PIP claim attorneys met with the Progressive attorneys and drafted a Memorandum of Understanding (hereinafter referred to as "MOU") which documented that all of the healthcare providers' PIP and bad faith claims, whether filed, perfected or just potential, were settled for the undifferentiated amount of \$14.5 million dollars.

19. The secret settlement agreement between the PIP claim attorneys and Progressive failed to allocate any monies to the bad faith claims, although the claimants were expected to release such claims.

20. After learning of the settlement and discovering that no monies had been allocated to the bad faith claims, the bad faith claim attorneys protested the MOU.

21. Thereafter, the PIP claim attorneys drafted an amended MOU and arbitrarily allocated \$1.75 million dollars of the total settlement towards the settlement of the Goldcoast plaintiff's bad faith claims.

22. Again, no monies were allocated to the bad faith claims of approximately 400 clients who were not included in the Goldcoast case, although those claims would have to be released as part of the settlement.

23. To consummate the settlement the PIP claim attorneys prepared false and misleading letters addressed to the healthcare provider clients. The letters did not disclose the several conflicts of interest inherent in the settlement, did not provide the clients a closing statement and did not advise the clients of the material facts necessary to make an informed decision about the case or execution of the releases.

24. The PIP claim attorneys received the settlement funds from Progressive on or about June 22, 2004, and these funds were placed within the PIP claim attorneys trust accounts.

25. Once the PIP claim attorneys received the settlement proceeds on June 22, 2004, they discharged the bad faith claim attorneys without cause, entered a notice of appearance in the Goldcoast litigation as attorneys for the bad faith claimants and dismissed that case with prejudice.

26. The bad faith claim attorneys filed suit against the PIP attorneys and sought injunctive relief to prevent the PIP claim attorneys from disbursing the settlement proceeds from Progressive.

27. When the bad faith claim attorneys learned the particulars of the secret settlement they also notified Respondent and the other PIP claim attorneys that in accordance with the Florida Bar rules governing claims of disputed ownership of property, all of the attorneys' fees should be held in escrow.

28. The PIP claim attorneys did not hold the funds in trust and instead disbursed the settlement fees amongst themselves contrary to Florida Bar Rules regulating trust accounts.

29. On or about April 24, 2008, the Honorable David F. Crow entered a Final Judgment in the case styled *Stewart Tilghman Fox & Bianchi, et al v. Kane & Kane, et al.*, Case No. 2004-CA-006138, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida. A copy of the Final Judgment is attached hereto and made a part hereof as **Exhibit A**.

30. The Final Judgment found in favor of the bad faith claim attorneys and awarded them approximately \$3 million dollars in damages.

31. In so ruling, the court found that the PIP claim attorneys, including Respondent, engaged in ethical misconduct in secretly settling all the claims against Progressive.

32. The court findings include but are not limited to the following:

a. The methodology used by the PIP claim attorneys in creating said settlement violated a number of rules, including Rules 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.7(c), 4-1.8, 4-1.8(g) and 4-1.4 of the Rules of Professional Conduct.

b. The PIP claim attorneys jointly drafted a letter to the Goldcoast clients that failed to disclose that although nothing was being allocated to the bad faith claims, the settlement included compensation for those claims. The letter also failed to disclose the amount of the settlement, the amount of the attorneys' fees being taken or the value of the bad faith claims being released.

c. Awarding fees only for the Goldcoast case would constitute unjust enrichment of the PIP claim attorneys and would allow the PIP claim attorneys to benefit by the work of the bad faith claim attorneys and reward the improper conduct of the PIP claim attorneys in the manner that they settled the claims.

d. The PIP claim attorneys unfairly deprived the bad faith claim attorneys of a fee by ignoring multiple conflicts of interest, misrepresenting the terms of the settlement to the bad faith claim attorneys, misrepresenting the terms of the settlement to the clients to obtain the releases to trigger payment, manipulating the allocation of the settlement to obtain most of it as attorneys' fees for themselves and by discharging the bad faith claim attorneys for no reason.

33. The factual findings of the court provide clear and convincing evidence that the PIP claim attorneys, including Respondent, engaged in conduct that violated the Rules of the Florida Bar.

34. The court's findings also provide evidence that the PIP claim attorneys, including Respondent, engaged in conduct involving deceit, dishonesty, fraud and misrepresentation.

35. The Fourth District Court of Appeal upheld the findings in the Final Judgment. A copy of the Appeals Court decision is attached hereto and made a part hereof as **Exhibit B**.

By the conduct set forth above, Respondent violated R. Regulating Fla. Bar **3-4.2** [Violation of the Rules of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline]; **3-4.3** [The standards of professional conduct to be observed by members of the bar are not limited to the observance of

rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.]; 4-1.4(a) [A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.]; 4-1.4(b) [A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.]; 4-1.5(f)(1) [As to contingent fees: (1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by subdivision (f)(3) or by law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial, or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement

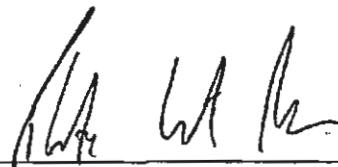
stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.]; 4-1.5(f)(5) [As to contingent fees: In the event there is a recovery, upon the conclusion of the representation, the lawyer shall prepare a closing statement reflecting an itemization of all costs and expenses, together with the amount of fee received by each participating lawyer or law firm. A copy of the closing statement shall be executed by all participating lawyers, as well as the client, and each shall receive a copy. Each participating lawyer shall retain a copy of the written fee contract and closing statement for 6 years after execution of the closing statement. Any contingent fee contract and closing statement shall be available for inspection at reasonable times by the client, by any other person upon judicial order, or by the appropriate disciplinary agency.]; 4-1.7(a) [A lawyer shall not represent a client if the representation of that client will be directly adverse to the interests of another client, unless: (1) the lawyer reasonably believes the representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and (2) each client consents after consultation.]; 4-1.7(b) [A lawyer shall not represent a client if the lawyer's exercise of independent professional judgment in the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person or by the lawyer's own interest, unless: (1) the lawyer reasonably believes the representation will not be adversely

affected; and (2) the client consents after consultation]; 4-1.7(c) [When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.]; 4-1.8(a) [A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, except a lien granted by law to secure a lawyer's fee or expenses, unless: (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client; (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.]; 4-1.8(g) [A lawyer who represents 2 or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.]; 4-8.4(a) [A lawyer shall not violate

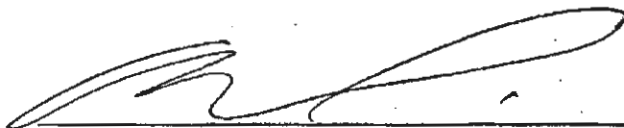


or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;]; **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.]; and **5-1.1(f)** [Disputed Ownership of Trust Funds. When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be treated by the lawyer as trust property, but the portion belonging to the lawyer or law firm shall be withdrawn within a reasonable time after it becomes due unless the right of the lawyer or law firm to receive it is disputed, in which event the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.].

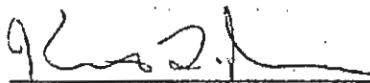
WHEREFORE, The Florida Bar prays Respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.



GHENETE ELAINE WRIGHT MUIR,  
Bar Counsel, The Florida Bar  
Lake Shore Plaza II  
1300 Concord Terrace, Suite 130  
Sunrise, Florida 33323  
(954) 835-0233  
Florida Bar No. 550728  
[gwrightmuir@flabar.org](mailto:gwrightmuir@flabar.org)



ALAN ANTHONY PASCAL,  
Bar Counsel, The Florida Bar  
Lake Shore Plaza II  
1300 Concord Terrace, Suite 130  
Sunrise, Florida 33323  
Florida Bar No. 961663  
[apascal@flabar.org](mailto:apascal@flabar.org)



KENNETH LAWRENCE MARVIN,  
Staff Counsel, The Florida Bar  
651 East Jefferson Street  
Tallahassee, Florida 32399-2300  
(850) 561-5600  
Florida Bar No. 200999  
[kmmarvin@flabar.org](mailto:kmmarvin@flabar.org)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing Complaint has been furnished by U.S. Mail to Thomas D. Hall, Clerk of the Supreme Court of Florida, Supreme Court Building, 500 South Duval Street, Tallahassee, Florida, 32399-1927; a copy of the foregoing, by certified mail No. 7011 2970 0003 0076 2621, return receipt requested, to John Preston Seiler, Respondent's Counsel, at Seiler, Sautter, Zaden, Rimes & Wahlbrink, 2850 North Andrews Avenue, Fort Lauderdale, Florida 33311-2514, and via electronic mail to [jseiler@sszrlaw.com](mailto:jseiler@sszrlaw.com); with a copy by electronic mail to Ghenete Elaine Wright Muir, Bar Counsel, [gwrightmuir@flabar.org](mailto:gwrightmuir@flabar.org), and Alan Anthony Pascal, Bar Counsel, [apascal@flabar.org](mailto:apascal@flabar.org), on this 18th day of March, 2013.



KENNETH LAWRENCE MARVIN  
Staff Counsel

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Friday, October 12, 2012 1:05 PM  
**To:** CN=Kenneth L. Marvin/O=The Florida Bar@FLABAR  
**Subject:** watson ps.- at 2 p.m

---

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Monday, October 7, 2013 1:36 PM  
**To:** lsstewart@flfblaw.com; William C. Hearon <bill@williamhearon.com>  
**Subject:** Fw: Addendum to M/Rehearing

---

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 10/07/2013 01:35 PM -----

From: Adria Quintela/The Florida Bar  
To: Larry Stewart <lsstewart@stfblaw.com>  
Cc: 'Alan Pascal' <APascal@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, 'Emily Sanchez' <ESanchez@flabar.org>, "Ghenete Wright Muir" <GWrightMuir@flabar.org>, 'Todd Stewart' <todd@trialcounselor.com>  
Date: 10/07/2013 09:32 AM  
Subject: RE: Addendum to M/Rehearing

I am reviewing the order now. If we file it we will send you a copy. Thanks,

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: Larry Stewart <lsstewart@stfblaw.com>  
To: Larry Stewart <lsstewart@stfblaw.com>, 'Adria Quintela' <aquintel@flabar.org>, 'Alan Pascal' <APascal@flabar.org>, "Ghenete Wright Muir" <GWrightMuir@flabar.org>  
Cc: "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <todd@trialcounselor.com>, 'Emily Sanchez' <ESanchez@flabar.org>  
Date: 10/07/2013 09:24 AM  
Subject: RE: Addendum to M/Rehearing

Did you receive this? Are you going to file it?

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.E. Third Avenue, Suite 3000  
Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

---

From: Larry Stewart  
Sent: Friday, October 04, 2013 9:38 AM  
To: Adria Quintela; 'Alan Pascal'; Ghenete Wright Muir  
Cc: William C. Hearon; Todd Stewart  
Subject: Addendum to M/Rehearing

I assume you know that the IQC denied Laura Watson's M/Dismiss which was based in part on the SOL. I suggest filing the attached Addendum to the M/Rehearing.

TFB-004857

You will need to get a copy of the Order from the JQC to attach. As of this morning it has not yet been posted on the JQC website. You might call the JQC. In any event, even if you don't have the order, I think this Addendum should be filed by the end of today so the referee will see it before the hearing on tue.

Note that I had a formatting problem again with footnotes. They came up as full text numbers. I have highlighted them in yellow. I assume someone can fix this.

Because the Marks & Feiseher cases are not consolidated, this Addendum needs to be separately filed in each case.

<< File: AddendumMFMREhearing.doc >>

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Monday, October 7, 2013 2:00 PM  
**To:** Larry Stewart <lsstewart@stflaw.com>  
**Subject:** RE: Addendum to M/Rehearing

---

Agreed. Thanks.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: Larry Stewart <lsstewart@stflaw.com>  
To: 'Adria Quintela' <aquintel@flabar.org>  
Date: 10/07/2013 01:55 PM  
Subject: RE: Addendum to M/Rehearing

Good. But don't let Tynan get you bogged down in the nuisances of the Watson case v. the Marks & Fischer cases. You have too many good arguments in the M/Rehearing, any one of which is sufficient for rehearing and denial of the M/Dismiss

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.E. Third Avenue, Suite 3000  
Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

From: Adria Quintela [mailto:aquintel@flabar.org]  
Sent: Monday, October 07, 2013 1:49 PM  
To: Larry Stewart  
Subject: RE: Addendum to M/Rehearing

We will bring it to the judge's attention tomorrow. I have all of the documents provided to me and those will be brought to the judge's attention.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
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From: Larry Stewart <lsstewart@stflaw.com>  
To: 'Adria Quintela' <aquintel@flabar.org>  
Date: 10/07/2013 01:46 PM  
Subject: RE: Addendum to M/Rehearing

Got it. Why wouldn't you want this neophyte country court judge to know that a 5th DCAQ judge has denied a M/Dismiss that was based in part of a claim that the SOL expired? You wouldn't be claiming that the ruling was res judicata, merely informative.

Larry S. Stewart  
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Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

From: Adria Quintela [mailto:aquintel@flabar.org]  
Sent: Monday, October 07, 2013 1:40 PM  
To: Larry Stewart  
Cc: William C. Hearon  
Subject: Fw: Addendum to M/Rehearing

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
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----- Forwarded by Adria Quintela/The Florida Bar on 10/07/2013 01:39 PM -----

From: Adria Quintela/The Florida Bar  
To: Larry Stewart <lsstewart@stfbaw.com>  
Cc: 'Alan Pascal' <APascal@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, 'Emily Sanchez' <ESanchez@flabar.org>, "Ghenete Wright Muir" <GWrightMuir@flabar.org>, Todd Stewart <todd@trialcounselor.com>  
> Date: 10/07/2013 09:32 AM  
Subject: RE: Addendum to M/Rehearing

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Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: Larry Stewart <lsstewart@stfbaw.com>  
To: Larry Stewart <lsstewart@stfbaw.com>, 'Adria Quintela'



<aquintel@flabar.org>, 'Alan Pascal' <APascal@flabar.org>, "Ghenete Wright Muir" <GWrightMuir@flabar.org> Cc: "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <todd@trialcounselor.com>, 'Emily Sanchez' <ESanchez@flabar.org> Date: 10/07/2013 09:24 AM  
Subject: RE: Addendum to M/Rehearing

Did you receive this? Are you going to file it?

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.E. Third Avenue, Suite 3000  
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Fax (305) 358-4707

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From: Larry Stewart  
Sent: Friday, October 04, 2013 9:38 AM  
To: Adria Quintela; 'Alan Pascal'; Ghenete Wright Muir  
Cc: William C. Hearon; Todd Stewart  
Subject: Addendum to M/Rehearing

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You will need to get a copy of the Order from the JQC to attach. As of this morning it has not yet been posted on the JQC website. You might call the JQC. In any event, even if you don't have the order, I think this Addendum should be filed by the end of today so the referee will see it before the hearing on tue.

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File: AddendumMFMREhearing.doc. >

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**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Monday, October 7, 2013 1:49 PM  
**To:** Larry Stewart <lssstewart@stflaw.com>  
**Subject:** RE: Addendum to M/Rehearing

---

We will bring it to the judge's attention tomorrow. I have all of the documents provided to me and those will be brought to the judge's attention.

Adria E. Quintela  
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From: Larry Stewart <lssstewart@stflaw.com>  
To: 'Adria Quintela' <aquintel@flabar.org>  
Date: 10/07/2013 01:46 PM  
Subject: RE: Addendum to M/Rehearing

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Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

From: Adria Quintela [mailto:aquintel@flabar.org]  
Sent: Monday, October 07, 2013 1:40 PM  
To: Larry Stewart  
Cc: William C. Hearon  
Subject: Fw: Addendum to M/Rehearing

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
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----- Forwarded by Adria Quintela/The Florida Bar on 10/07/2013 01:39 PM -----

From: Adria Quintela/The Florida Bar  
To: Larry Stewart <lssstewart@stflaw.com>

Miami, FL 33131  
Tel: 305.358.9000  
email: dbr@rothmanlawyers.com  
website: RothmanLawyers.com

This email message and any attachment are confidential and privileged and intended only for the named recipient(s). If you have received this in error, please immediately notify Rothman & Associates, P.A. at 305-358-9000, and delete the message and attachment.

-----Original Message-----

From: Larry Stewart (mailto:lstewart@stfblaw.com)  
Sent: Tuesday, October 15, 2013 11:01 AM  
To: 'Kenneth L. Marvin'; John T Berry; 'jharkness@flabar.org'  
Cc: David Rothman; William C. Hearon; 'Todd Stewart'  
Subject: FW: Fla Bar v. Gary Marks & Amir flescher Appeal

Ken:

I assume that you know the referee denied the M/Rehearing and we now have to go to the Supreme court. In that regard, I would like to urge the appointment of Special Counsel to handle the appeal

I know that in the past Bar counsel have handled appeals but I doubt that many, if any, involved the complexities of this case. While at first blush this might appear to be a slam dunk, it is anything but a certain reversal and writing the brief and arguing this case to the Court is going to require someone with specific appellate advocacy skills. As far as Bar counsel is concerned, I suggest it would be imprudent to have the office that dropped the ball on this motion write the brief and argue the matter before the court. Not only would it be awkward for them to explain in the brief how the original hearing was botched but it would also be very difficult to appear in front of the Court to argue this appeal. That is a reason why in many cases trial counsel does not handle the appeal.

Moreover, from reading the transcript, I am still not convinced that Bar counsel yet understands the issues involved. For example when the judge raised the point that Marks and Fleischer's lawyer did not object to the deferral of the case pending the appeal (p. 43)-- thereby potentially tolling the SOL -- Bar counsel allowed it to be brushed off as just a reference to the "reviewer." And, when the judge ruled that the Bar was not on notice of the violations until 2008 (p. 48), Bar counsel did not make the point that the Formal Complaint was filed in 2013, just five years later. Nor did they bring to the judges' attention that the JQC had denied a motion to dismiss in the Laura Watson case the was based in part on the SOL (even though they told me that they were going to do so). I had provided Bar counsel with an Addendum to the M/Rehearing on the Watson ruling but they did not file it so there is nothing in the record on that point; in other words, the point is now lost unless Watson tries some sort of interlocutory appeal. I don't like having to report these things but I think it is necessary for you to know as you consider how to proceed.

Writing the brief in this appeal is going to require a lot of skill. Aside from the basic arguments the brief will have to

1. Finesse the fact that there was no record or substantive argument at the original hearing. That all came up on the M/Rehearing and, as I feared, the respondents' lawyers were all over the fact that the Bar was supplementing the record on rehearing with new matters and new arguments.

2. Cover all the "laches" issues. While the judge said at the rehearing that he was not ruling on the basis of laches -- probably because he realized that he made a big mistake in his original order -- that does not mean that the respondents will not attempt to revive the point. In addition, the judge also denied the M/Strike all of the evidence that the respondents submitted. He was obviously trying to straddle the issue and we should use his screw-up to subtly suggest that he doesn't know what he is doing.

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Tuesday, September 17, 2013 3:37 PM  
**To:** CN=Ghenete Wright Muir/O=The Florida Bar@FLABAR  
**Cc:** CN=Emily Sanchez/O=The Florida Bar@FLABAR  
**Subject:** Fw: M&F M/Limine -- pt 3

---

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 09/17/2013 03:36 PM -----

From: Adria Quintela/The Florida Bar  
To: Cheryl Solet/The Florida Bar@FLABAR  
Date: 09/12/2013 11:13 AM  
Subject: Fw: M&F M/Limine -- pt 3

6;

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 09/12/2013 11:13 AM -----

From: Larry Stewart <lswstewart@stflaw.com>  
To: Larry Stewart <lswstewart@stflaw.com>; 'Ghenete Wright Muir' <GWrightMuir@flabar.org>  
Cc: "APascal@flabar.org" <APascal@flabar.org>; "aquintel@flabar.org" <aquintel@flabar.org>; 'Emily Sanchez' <ESanchez@flabar.org>  
Date: 09/12/2013 11:04 AM  
Subject: RE: M&F M/Limine -- pt 3

Here it is.

From: Larry Stewart  
Sent: Monday, August 19, 2013 4:32 PM  
To: Ghenete Wright Muir  
Cc: 'APascal@flabar.org'; aquintel@flabar.org; Emily Sanchez  
Subject: RE: M&F M/Limine -- pt 3

More in connection with pt. 3 below (written so that it can be pasted into your Response to the motion).

Judge Crow and Judge Kimball's findings, albeit in connection with trials involving Marks and Fleischer's co-conspirators, are highly relevant because they describe joint conduct in which Marks and Fleischer acted in concert with the other PIP lawyer Respondents. Indeed, during the trial before Judge Crow, he made a specific ruling to the joint conduct which is attached hereto as Ex. 1. As described by Judge Crow at pp 2 -- 11 of the Final Judgment and by Judge Kimball at pp 4 - 17 of the Memorandum Opinion -- and which will be established by the Bar's independent evidence at trial -- all of the Respondents acted jointly in handling the claims of the 441 clients and in secretly settling those claims. Under the concerted action doctrine and/or as joint venturers the acts of each Respondent are imputed to all the other Respondents. Under the

concerted action doctrine it is not necessary that each defendant commit each act comprising the tort, but only that, pursuant to a common plan, each defendant take part in it, further it, or aid or assist in its commission. See, e.g., Ray v. Cutter Laboratories, Div. Of Miles, Inc., 744 F.Supp. 1124, 1127 (M.D. Fla. 1990); accord, e.g., Acadia Partners, L.P. v. Tompkins, 759 So. 2d 732, 736 (Fla. 5th DCA 2000); Roos v. Morrison, 913 So. 2d 59, 68 n.1 (Fla. 1st DCA 2005). Additionally, as described in Judge Crow and Judge Kimball's findings -- and as will be established by the Bar's independent evidence at trial -- it is beyond dispute that Marks and Fleischer were joint venturers with the other PIP lawyer Respondents. See, e.g., Schutzer v. Springmeyer, 989 F.Supp. 833, 837 (S.D. Tex. 1998); In re Johnson, 552 N.E. 2d 703, 707 (Ill. 1989); Duggins v. Washington, 632 So.2d 420, 427 (Miss. 1993); Restatement (Third) of the Law Govering Lawyers §9, Comment. A joint venture is governed by the rules relating to partnerships. E.g., Hayes v. H.J.S.B.B. Joint Venture, 595 So. 2d 1000, 1002 (Fla. 4th DCA 1992). Under the Uniform Partnership Act, and in particular sections 620.8305, 620.8306(1) and 620.8307(2), each partner is responsible for the acts of his or her co-partner, even if entirely innocent himself and even if he has no knowledge that the acts were occurring. Finally, it will be established at trial that Marks and Fleischer knowingly participated in the global settlement and accepted its benefits, thereby ratifying the tortious misconduct that produced it and making it their own. Zurstrassen v. Stonier, 786 So.2d 65, 71 (Fla. 4th DCA 2001).

Thus, the Final Judgment and Memorandum Opinion, which are admissible evidence in a grievance trial, See, e.g. The Florida Bar v. Gwynn, 94 So.3d 425 (Fla.2012), both establish relevant facts which should be received in evidence. The fact that the Bar will independently present the same evidence does not render those findings inadmissible.

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Sunday, August 18, 2013 5:15 PM  
To: Larry Stewart  
Cc: 'APascal@flabar.org'; aquintel@flabar.org; Emily Sanchez  
Subject: Re: Marks and Fleischer M/Limine

You're welcome & thanks for your comments.

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart <lswewart@stflaw.com>  
To: Ghenete Wright Muir <GWrightMuir@flabar.org>; "APascal@flabar.org" <APascal@flabar.org>  
Cc: "aquintel@flabar.org" <aquintel@flabar.org>  
Date: 08/16/2013 04:49 PM  
Subject: Marks and Fleischer M/Limine

Thanks for the pleadings. I assume that the M/Limine will be one of the pretrial motions that will be heard on 9/17. I happened to be working on the Watson case today but I have the time so a few comments on the M/Limine.  
1. Para # 1 re the Bar is only now moving forward 9 years later. Your files will show that Marks and Fleischer, as well as their cohorts, all demanded that the grievances be held in abeyance pending the appellate process. In fact, when the Bar agreed to do so, we appealed to the Bd of Gvs and I believe they

all responded that the Bar was right to delay the proceedings. They should not now be heard to complain about how long it has taken.

2. A small point, in para # 9, they claim that they presented no witnesses at the Judge Crow trial. That is technically correct but you should know that Amir Fleischer testified extensively for the Defendants at the trial.

3. The evidence shows clearly that at all times all 6 PIP lawyers acted in lockstep and in concert, so that the acts of one were the acts of all. (See Final Judgment pp 2 – 11 where Judge Crow describes how they worked together from beginning to end.) In addition, at no time did either Marks or Fleischer object to anything that was being done in their behalf, thus ratifying the conduct. Since the other Defendants' acts were also legally binding on Marks and Fleischer, the Orders describing that conduct is relevant. This is not a situation where the Orders describe only "misconduct of others" – see para 16 – but rather misconduct in which they were actively engaged as a co-actors/co-conspirators.

4. As you know better than I, this is a quasi-administrative proceeding in which the rules of evidence are relaxed so that all relevant evidence is admissible. The arguments at para 13 & 14 do not involve Bar proceedings and those rules do not strictly apply here.

5. While not res judicata, since they were not parties, it is relevant that two judges who held the same facts albeit in a case involving their co-actors/co-conspirators found the conduct that was committed by them and on their behalf to be extremely unethical.

No virus found in this message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 2013.0.2904 / Virus Database: 3211/6589 - Release Date: 08/19/13

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Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart <lswewart@stflaw.com>  
To: Ghenete Wright Muir <GWrightMuir@flabar.org>  
Cc: Adria Quintela <aquintel@flabar.org>, Alan Pascal  
<APascal@flabar.org>, Emily Sanchez <ESanchez@flabar.org>, "William C. Hearon"  
<bill@williamhearon.com>, Todd Stewart <Todd@trialcounselor.com> Date:  
09/04/2013 11:32 AM Subject: RE: phone call

That is too late. One of the several things I wanted to discuss with you is the filing of a M/Consolidate. As you know, I have been urging such a motion from the beginning of these prosecutions and you have recently said that it would be filed. It is now critical that it be filed. As a matter of strategy this motion is an opportunity to educate the judge about the inter-relationship of the PIP lawyers and the law of concerted action. I doubt that he has ever run into that body of law before. It is important, maybe critical, that he understand these points before the hearing on M & F M/Limine, which is set for hearing on 9/17.

Additionally, I also wanted to discuss with you the preparation and filing of a Memo of Law in Opposition to the M & F M/Limine. Again given the inexperience of the judge, he should get all the help possible. I have already sent you the law on concerted action. Not only is that a major reason why the M/Limine should be denied, but it will also play a key role in the hearsay objections which will be raised at trial. The more the judge understands, the better it will be for the cases.

I understand that you are busy and I can help in the preparation of the motion and memo but we need to talk ASAP.

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Wednesday, September 04, 2013 9:17 AM  
To: Larry Stewart  
Cc: Adria Quintela; Alan Pascal; Emily Sanchez  
Subject: RE: phone call

Larry:

Tuesday afternoon.

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart <lswewart@stflaw.com>  
To: Larry Stewart <lswewart@stflaw.com>, Ghenete Wright Muir  
<GWrightMuir@flabar.org> Cc: Adria Quintela <aquintel@flabar.org>  
Date: 09/04/2013 10:47 AM  
Subject: RE: phone call

Ghenete: When can we talk?

TFB-004875

From: Larry Stewart  
Sent: Tuesday, September 03, 2013 12:08 PM  
To: 'Ghenete Wright Muir'  
Subject: RE: phone call

When will you be available? I also want to discuss the M/Consolidate and the M & F M/Limine. I believe that is the next motion that will come up for hearing.

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Tuesday, September 03, 2013 12:04 PM  
To: Larry Stewart  
Cc: Emily Sanchez  
Subject: RE: phone call

We did not get an Order. I have copied Emily, she will forward the Order to you when received.

Let's plan to discuss the MTD at a later date since it's not urgent and I am getting ready for trial.

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart <lswstewart@stfbaw.com>  
To: Ghenete Wright Muir <GWrightMuir@flabar.org>  
Date: 09/03/2013 01:59 PM  
Subject: RE: phone call

Did you get an Order? I also want to talk about the M/Dismiss but itâ€™s not a simple question.

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Tuesday, September 03, 2013 11:49 AM  
To: Larry Stewart  
Cc: Emily Sanchez, Alan Pascal  
Subject: phone call

Larry:

I just got the message you called. I am preparing for trial. Please email your question.

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org



**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Tuesday, September 10, 2013 5:53 PM  
**To:** Larry Stewart <lsstewart@stflaw.com>  
**Cc:** Ghenete Wright Muir <GWrightMuir@flabar.org>; Alan Pascal <APascal@flabar.org>; Adria Quintela <aquintel@flabar.org>; William C. Hearon <bill@williamhearon.com>; Todd Stewart <todd@trialcounselor.com>  
**Subject:** Re: Rehearing

---

Thank you Larry.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

-----Larry Stewart <lsstewart@stflaw.com> wrote: -----

-----To: Ghenete Wright Muir <GWrightMuir@flabar.org>; Alan Pascal <APascal@flabar.org>; Adria Quintela <aquintel@flabar.org>  
From: Larry Stewart <lsstewart@stflaw.com>  
Date: "09-10-2013" "04:47PM"  
Cc: "William C. Hearon" <bill@williamhearon.com>; Todd Stewart <todd@trialcounselor.com>  
Subject: Rehearing

=====Some initial thoughts for rehearing, not necessarily in order of priority:

1. I would file all of Marks and Fleischer's responses to the grievance and argue that they never raised the SOL before filing their Answers on 4/11/13.

2. I would file all of the responses of all the co-Respondents to the grievance. There are several from Watson and the Kanes which ask for postponement. From that I would argue that the co-respondents asked for postponement until the appellate process was over and neither Marks nor Fleischer ever objected. In fact, they took full advantage of the delay (by continuing to practice). This goes to refute the Order that M & F did nothing to toll the time. I would couple this with the law on concerted action in at least a footnote.

3. I would raise and file if necessary the standing Bar policy re deferring action pending the outcome of underlying litigation. If the referee were correct, it would render the standing Bar policy nonsense.

4. There are a number of factual misstatements in the M/Dismiss and in the M & F affidavits. I would argue that this being a M/Dismiss the facts have to be taken from Judge Crow's and Kimball's orders - as plead in the complaints. In that respect, I would argue that the facts, as set forth in both Judge Crow and Judge Kimball's orders, show that at all times material the 6 PIP lawyers were acting in lockstep and concert. See Judge Crow's Final Judgment at pp 2 - 11 and Judge Kimball's Memorandum Opinion at pp 4 - 17. I think this is important because you want to rely on those orders in the coming appeal of the M & F order. Since those orders are incorporated into the complaints against M & F they must be taken as true for purposes of the M/Dismiss. I would also cite the cases holding that such orders are sufficient by themselves to find ethical violations. Relying on the M & F affidavits creates factual issues which cannot be resolved on a M/Dismiss. Indeed the Order concedes that there were "disputed issues of fact" and those cannot be resolved at a M/Dismiss. This is, however, probably a minor point since the referee did not appear to use any of those misstatements. The more difficult problem is that there is no refutation of the factual claims of prejudice. But see below on those points.

5. As far as the destruction of their files and records is concerned, you

can make the point that they conceded that they knew the ethical issues existed (were present in the underlying litigation). When they destroyed the files and records - admittedly before the SOL had expired, they did that at their own risk.

6. As far as the "dead witness," her death does not prejudice M & F. They can testify about those events. In any event, she was only a Progressive adjuster and a bit player as far as the secret settlement was concerned - not even present at the drafting of the MOU or the amendment to the MOU. In addition, Fran Anania, Progressive's lawyer, is available and he was the principle Progressive representative - he made the offers and he is the one who with the Respondents drafted the MOU and the amendment to the MOU. It is not every dead witness who creates prejudice; only material witness whose testimony cannot be duplicated from other sources.

7. The order concedes that the grievance was timely filed, i.e., begun. That should be the end of it. But the Order then states that the Bar's position is that the Bar had 6 years thereafter to file a complaint. I hope that is a misstatement because it is clearly wrong since the 6 years run from the date of the event, i.e., May '04. SOL relates to how long one has the initiate proceedings, not how long one has to process the matter once it has been initiated. If a lawsuit is timely filed, it doesn't matter how long it takes to process the case. The Order of Dismissal confuses "commencement" with the filing of a "formal complaint." [See Rule 3-3.2(a) referring to a "formal complaint."] Clearly those are two different things. I think the correct argument is that the proceedings were "commenced" with the filing of the grievance complaint and, once commenced, they were held in abeyance in accord with the standing Board policy and the requests of the co-respondents pending the appellate process. [The latter point is why it is important to make the point that the co-Respondents were acting throughout in lockstep - see # 4 above.] Note that Rule 3-7.16 does not say that a formal complaint must be filed within 6 years, only that the proceedings must be "commenced." The plain meaning of "commenced" is to begin or start. In Florida a grievance is begun or started by either the Bar or by an individual filing a written complaint under oath. If Bar counsel determines the allegations would constitute an ethical violation, a disciplinary file is opened and the initial inquiry "shall be considered as a complaint." Rule 3-7.3(b). Note the difference between a "complaint" and a "formal complaint." Thereafter, the process requires an investigation, grievance committee hearing and a finding of probable cause before a formal complaint can be filed. Of course, the problem here is that the Bar delayed proceeding until Jan 2012 (or whenever the first Notice of the grievance committee hearing was furnished to the respondents) but if you can make the point that the proceedings were commenced with the initial complaint, it should not make any difference that a formal complaint was not filed until 3/13/13.

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**From:** Alan Anthony Pascal <APascal@rajtarandassociates.com>  
**Sent:** Friday, January 11, 2013 12:59 PM  
**To:** <gwrightmuir@flabar.org>  
**Cc:** <apascal@flabar.org>  
**Subject:** FW: Extracted Documents for Case File: 200851561  
**Attach:** Formal Complaint.doc; \_Certification\_.htm

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## Redacted - Privileged

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Friday, January 11, 2013 11:32 AM  
To: jsstewart@stflaw.com  
Cc: APascal@RajtarAndAssociates.com; Emily Sanchez  
Subject: Extracted Documents for Case File: 200851561  
Importance: High

Good Morning Mr. Stewart,

Please find attached our draft of the complaint. This will be used for Lentner, Marks & Fleischer. We will be using a variation of this for Kane and Kane.

I will be out of the office on Monday. So it would be best to discuss any suggested changes you may have on Tuesday or Wednesday afternoon.

Thank you.

Formal Complaint 12/19/2012

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org - Formal Complaint.doc - \_Certification\_.htm

**From:** Larry Stewart <lswewart@stflaw.com>  
**Sent:** Monday, September 16, 2013 9:56 AM  
**To:** 'APascal@flabar.org' <APascal@flabar.org>; 'Ghenete Wright Muir' <GWrightMuir@flabar.org>; 'Ghenete Wright Muir' <GWrightMuir@flabar.org>  
**Cc:** William C. Hearon <bill@williamhearon.com>; 'Todd Stewart' <todd@trialcounselor.com>  
**Subject:** M/Rehearing  
**Attach:** marks fleischer motion for rehearing.doc

---

Attached are my thoughts on the M/Rehearing. I started redlining your draft but it became too much and too confusing. As you will see, I re-ordered certain of the points – for example, moving up the erroneous statement about your position on the SOL to the first point. I added 1 new point and beefed up others but all your points are still there even though the form might be different. There are still a number of things that need to be filled in which are highlighted in yellow.

I will be shortly sending you my affidavit. There are a bunch of attachments to it which I will probably send in a separate message.

A few things to note about this motion:

1. Because the cases are not yet consolidated, you need to file two separate motions, one in each case.
2. Under the Rehearing Rule 1.530(c) my aff't must be filed with the M/Rehearing
3. I eliminated references to M/Reconsideration and Relief from Judgment. We cannot meet the test for Relief from judgment and Reconsideration is duplicative of Rehearing. Using those terms confuses the issue.
4. Please check and make sure the Rule 3-7.4(e) and the Standing Bd of Govs policy re deferral were both in effect at all times of these cases. There was some suggestion in the hearing that one of both weren't and that they only were enacted later.
5. Re the sequence of events on deferral – pp 7 – 8 – my file shows that Bar counsel made the initial decision. We then asked for Bd of Govs review and the Bd concurred. Do I have that correct?
6. For some reason there is a formatting problem with the footnotes in the text. They appear as numbers rather than footnotes. I have highlighted them in yellow for ease of finding. I assume you all can fix that.
7. Please review carefully to make sure that I didn't misstate something about the timing of events.

Please also review carefully for grammar, punctuation, spelling, etc.

Larry S. Stewart

Stewart Tilghman Fox Bianchi & Cain, P.A.

One S.E. Third Avenue, Suite 3000

Miami, FL 33131

Telephone (305) 358-6644

Fax (305) 358-4707

**From:** Larry Stewart <lswewart@stflaw.com>  
**Sent:** Tuesday, July 30, 2013 2:20 PM  
**To:** Ghenete Wright Muir <GWrightMuir@flabar.org>; 'APascal@flabar.org'-'APascal@flabar.org'  
**Subject:** FW: Notice of Formal Charges  
**Attach:** Notice of Formal Charges.pdf; ATT00001.txt

---

A suggestion -- under the topic of "new developments" -- I assume the judge will ask about that and, if not, you could bring it up -- these charges could be a great opportunity to let the judge that the JQC is proceeding on the same facts to remove the 6th PIP lawyer from the bench. That would underscore the gravity of charges against the other 5 and, for a neophyte judge, could make a considerable impression.

We have only indirectly discussed the nature of the appropriate discipline but, if that subject comes up (and I recognize it may not) please keep in mind that in addition to disbarment, restitution under 3-5.1(i) for conversion of trust funds (they disbursed trust funds which should have been held in trust because of their disputed claim to those funds) and forfeiture of fees under 3-5.1(h) for clearly excessive fees apply.

-----Original Message-----

**From:** Larry Stewart  
**Sent:** Tuesday, July 30, 2013 9:53 AM  
**To:** 'Ghenete Wright Muir'; 'APascal@flabar.org'  
**Cc:** 'aquintel@flabar.org'; 'Kenneth L. Marvin'  
**Subject:** FW: Notice of Formal Charges

Attached are the Formal Charges filed last week by the JQC against Laura Watson. The Sup Ct case no. is SC2013-13333. As you will see, the charges closely track the charges of the Bar against the other PIP lawyers.

- Notice of Formal Charges.pdf - ATT00001.txt

STEWART TILGHMAN FOX BIANCHI & CAIN, P.A.  
ATTORNEYS AT LAW

LARRY S. STEWART  
JAMES B. TILGHMAN, JR.  
GARY D. FOX  
DAVID W. BIANCHI  
STEPHEN F. CAIN  
A. DAX BELLO

PERSONAL & CONFIDENTIAL

SUITE 3000  
ONE SOUTHEAST THIRD AVENUE  
MIAMI, FLORIDA 33131-1711  
(305) 358-6644  
FAX (305) 358-4707  
www.stflaw.com

August 6, 2013

Eugene K. Pettis, Esquire  
Haliczer Pettis & Schwamm  
1 Financial Plaza, 7<sup>th</sup> Floor  
Fort Lauderdale, FL 33394

Gregory W. Coleman, Esquire  
Burman Critton Luttier & Coleman  
303 Banyan Blvd., Suite 400  
West Palm Beach, FL 33401

Re: The Florida Bar v. Charles Kane, et al, Case Nos. SC 2013-  
388,389,390, 391 and 392

Dear Gene and Greg:

I have always had great admiration and respect for the job that The Florida Bar has done in disciplining lawyers and maintaining the integrality of the Bar. Unfortunately I am now involved in a group of grievance cases that causes me great concern that unless more is done, that obligation will not be fulfilled, and I want both of you to be aware of this.

The above cases arise out of a secret \$14.5 million settlement that was engineered by the Respondents in the above cases and was designed to prevent my firm and the firms of our partners from realizing any fees for our work. More importantly, the Respondents took millions that should have gone to their clients (440 of them) and in the process of rushing to collect the settlement, ran roughshod over the clients' rights, ignoring many conflicts of interest and violating multiple ethical rules. Then, after being put on notice that the disputed funds should be held in trust, the Respondents disbursed those monies to themselves in violation of the trust account rules. Factual findings by Judge David Crow and U.S. Bankruptcy

Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

Judge Erik P. Kimball clearly establish the Respondents' wrongdoing. Judge Crow's findings have been affirmed by the Fourth District Court of Appeal and the Florida Supreme Court denied review. The findings of Judge Kimball have been affirmed by the U.S. District Court and are presently pending before the 11<sup>th</sup> Circuit Court of Appeals.

Judge Crow referred the matter to the Bar and Bill Hearon and I also filed formal grievances (in April 2008). After an exceedingly long delay, the Bar found probable cause for prosecution on a variety of Bar Rule violations, complaints were filed and these cases have now been set for trial the week of December 9<sup>th</sup>.

One of the lawyers involved in this scheme, Laura Watson, was elected to the Broward Circuit Court after the probable cause findings but before her case was filed with the Florida Supreme Court. Therefore there is no Bar case pending against her. Nonetheless, the Judicial Qualification Commission took the matter up, found probable cause to proceed and a Notice of Formal Charges has now been filed by the JQC. (Case No. SC 2013-1333). The Florida Supreme Court website notes that the Laura Watson matter is a "high profile case."

On the surface one would think that these are simple cases given the extensive findings of the judges who have already heard the evidence but this is not going to be a walk in the park. The Respondents are experienced lawyers who have a spin for every adverse fact. It is already clear from Respondents' Answers that they intend to try to convince the referee that Judge Crow and Judge Kimball misunderstood the facts, their conclusions are wrong and the case is factually much different from what is recounted in their opinions. This is no surprise since they have tried that in each and every court that has considered these cases. The falsity of their claims can be demonstrated but it will take skillful cross-examination to do so. Effective cross-examination is therefore going to be key to a successful prosecution. That will require mastery of the facts as well as the extensive documentary evidence. This is not something that can be done at the last minute; they are complex and it will take considerable time. To date, Bar counsel has not yet begun that process of review and time is quickly slipping away.

STEWART TILGHMAN FOX BIANCHI & CAIN, P.A.  
ATTORNEYS AT LAW

TFB-006158

Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

Complicating the Bar cases is the fact that they have been assigned to a new county court judge who has no experience in Bar grievance matters. This does not mean, of course, that he cannot handle these matters but special attention should be paid to case preparation and trial strategy since it could be a real challenge to present the case over what undoubtedly will be continuous objections, while at the same time educate the judge about the applicable rules and demonstrate that the Respondents are misleading and deceiving the court with their version of events.

The preparation of the Watson JQC case is, on the other hand, already well underway. It is being handled by a veteran trial lawyer, Miles McGrane, who has already done extensive preparation. He has met with me twice, reviewed significant parts of the documentary evidence and developed a trial strategy. With only four months to trial, however, I am concerned that there will be two prosecutions on the same facts: one that will result in Laura Watson's removal from the bench and disbarment and the other in which her cohorts will escape discipline or only get a slap on the wrist due to inadequate preparation and trial strategy.

Here are some of the specific things that have or have not happened which cause my concern:

- Other than a mostly "meet and greet" meeting in advance of presenting the cases to the local grievance committee, Bar counsel did not meet with us or examine any additional documents (other than what we initially provided with the grievance letter) before drafting the complaints. As drafted, the complaints had significant factual errors and omissions. Had I not insisted that they be sent to me for review, these cases would have started out on the wrong foot.
- On numerous occasions I have offered to help with various aspects of the cases. Several times the response was that as a complainant I had no right to be involved in the cases and the Bar did not need my help. On other occasions the response was simply "Thank You" and my input was ignored. I can understand why the Bar might not want to deal with lay people in their prosecutions but I am an experienced trial

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TFB-006159



Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

lawyer, having handled some of the most complex and difficult cases in the nation. More important I was the chief witness in both the State Court (on the stand for 10 days) and the Bankruptcy Court and I know the facts inside out. Trying to learn the facts cold makes no sense and the facts need to be known thoroughly to be able to effectively cross-examine the Respondents.

- When the Respondents sent Interrogatories and Requests for Production and I was not contacted by the Bar, I prepared draft responses since I knew that Bar counsel on their own did not know what the responses should be. Some of what I suggested was rejected and the Bar is now in the position of having to file Amended Responses or it will face non-disclosure objections at trial.
- As part of the Response to the Requests for Production, I copied and delivered to Bar counsel all of the documentary evidence from the State Court trial. Those documents put the lie to all of the various spins the Respondents have tried to place on the facts. I see no evidence that Bar counsel has yet begun to study and learn those documents.
- In the underlying trials, both in State Court and in the Bankruptcy Court, I testified as an expert on the reasonableness of the Respondents' attorneys' fees (the fees actually collected were grossly excessive given the time they spent on the cases). My testimony was based on an examination of 500 of the Respondents files. Both Judge Crow and Judge Kimball expressly found my testimony credible and based their decisions on it. On appeal from the State Court judgment, my expert testimony was challenged and its admission was affirmed. The interrogatories propounded to the Bar required disclosure of expert witnesses. Although Bar counsel was aware of the foregoing, they elected to not list me as an expert. Their explanation is that they preferred to get an independent expert. The files that I examined probably no longer exist so that no other expert will have a foundation to opine on Respondents' fees and no expert is presently listed.

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TFB-006160

Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

- One set of Interrogatories called for the identification of all aggravating factors that the Bar will seek to establish. Most of the categories under Lawyer Sanctions Standards 9.22 apply under the facts of these cases. In the draft answers that I furnished to Bar Counsel I included all those factors. Bar counsel however elected to list only one category: "Dishonest or selfish motive." This is another instance where the Bar is in the position of having to file an Amended Response or, when it attempts to use all the categories as support of the appropriate level of discipline, it will face a non-disclosure objection.
- I advised Bar counsel that the JQC special prosecutor's trial strategy was going to focus on the wrong done to the Respondents' 440 clients and I furnished them with the disposition testimony of several clients to that effect. Bar counsel dismissed that approach as unnecessary and instead said they were going to concentrate on the prior findings of the State and Bankruptcy Courts. Those findings are however narrower since they focus primarily on the wrong done to us. The harm to the 440 clients is what makes disbarment such an appropriate remedy and there is ample evidence to support that approach. The client names have not yet been listed as witnesses.
- I cannot get a answer or commitment as to whether, in addition to disbarment, Bar counsel will seek restitution under 3-5.1(i) for conversion of trust funds [Respondents disbursed trust funds which should have been held in trust because of the disputed claim to those funds] and forfeiture of fees under 3-5.1(h) for collecting clearly excessive fees.
- Bar counsel has not yet brought the JQC proceeding against Laura Watson to the referee's attention. That prosecution and the fact that the Court has designated it as a "high profile case" underscores the gravity of the charges involved in these cases. I would think that Bar counsel would not only want the referee to know of that matter but

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TFB-006161

Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

they would also want to use the probable cause findings as evidence. That is another item that needs to be included in the Amended Responses to discovery.

- The trial date is now just four months away but Bar counsel has still not spent any significant time with us to prepare the case. When I raised getting together to prepare, Bar counsel replied that we will get together sometime in October or November. The facts are complex and putting preparation off creates a substantial risk of being unprepared for cross examination. Of even more concern, defense counsel have announced that they are going to file Motions for Summary Judgment. Without mastery of the facts it will be difficult for the Bar to properly or adequately respond to those motions.

I doubt that the Bar has many other cases of this magnitude and egregiousness, where a group of lawyers have intentionally and maliciously stolen millions of dollars from 440 clients and their co-counsel, committing numerous ethical violations, and then lied repeatedly to try to escape responsibility; and when finally caught showed no remorse and did everything possible to avoid making restitution for their wrongdoing. Yet it appears that these cases are being treated as just another "run-of-the-mill" prosecution.

I have diligently raised these concerns with Bar counsel and various others in the Office of Professional Regulation. The response has been that this is the Bar's case, as a complainant I have no right to be involved and that I would just have to trust the Bar to get it right. Those responses would not be so disturbing if I saw change and engagement in case preparation but that has not happened. Throughout most of my career, especially in complex cases I have handled, I worked with various other lawyers and I know the warning signs when things are not going well or when a case is not being prepared correctly.

I am therefore now asking your help in getting these cases on track and properly prepared for trial. There is still time but it is quickly running out. At a minimum these cases should have the most senior and experienced prosecutor on the Bar staff and the Bar and the JQC prosecutions should be coordinated so that

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TFB-006162

Eugene K. Pettis, Esquire  
Gregory W. Coleman, Esquire  
August 6, 2013

the referee and the JQC hearing panel hear the same case. One of the best ways to accomplish this would be to bring the JQC Special Prosecutor on to the Bar trial team. I also think that my trial advocacy experience and knowledge of the facts would be helpful and an asset to the prosecution but so far I am not "in the loop." To underscore this point, over half the time that I try to contact Bar counsel it takes me several tries because she is either "in a meeting" or otherwise not available and my call back messages are often ignored. I hope that you can help.

For your reference, the reported opinions on the State and Bankruptcy Court decisions are at: *Kane v. Stewart Tilghman Fox & Bianchi, P.A.*, 85 So. 3d 1112 (4<sup>th</sup> DCA 2012); *In re Kane*, 470 B.R. 902 (Bankr.S.D.Fla.2012); and *Kane v. Stewart Tilghman Fox & Bianchi, P.A.*, 485 B.R. 460 (S.D. Fla. 2013). I can also supply the unreported decisions should you want them.

I would be happy to answer any questions you might have or supply any other information. I would appreciate it if one of you would call me so that we can discuss this in more detail. Thank you.

Very truly yours,

Larry S. Stewart

STEWART TILGHMAN FOX BIANCHI & CAIN, P.A.  
ATTORNEYS AT LAW

TFB-006163

**From:** CN=Kenneth L. Marvin/O=The Florida Bar  
**Sent:** Tuesday, September 10, 2013 2:05 PM  
**To:** CN=Adria Quintela/O=The Florida Bar@FLABAR  
**Subject:** Fw: Bar Grievance matters  
**Attach:** EmbeddedImage0001.gif; EmbeddedImage0002.gif

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## Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399  
----- Forwarded by Kenneth L. Marvin/The Florida Bar on 09/10/2013 02:04 PM  
-----

From: "Gregory W. Coleman" <gwc@bclclaw.com>  
To: <epettis@hpslegal.com>, "John F Harkness" <jharkness@flabar.org>,  
<jberry@flabar.org>, <kmarvin@flabar.org>, "Gregory W. Coleman"  
<gwc@bclclaw.com>  
Date: 09/10/2013 02:02 PM  
Subject: RE: Bar Grievance matters

## Redacted - Privileged

Regards  
Greg

Gregory W. Coleman - Attorney at Law  
303 Banyan Boulevard | Suite 400 | West Palm Beach | FL 33401  
Phone: (561) 842-2820 | Fax: (561) 844-6929  
Direct: 561-515-3130  
gwc@bclclaw.com | www.bclclaw.com

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From: Lary Stewart [mailto:lsstewart@stflblaw.com]  
Sent: Tuesday, September 10, 2013 1:26 PM  
To: epettis@hpslegal.com; Gregory W. Coleman  
Subject: Bar Grievance matters

Dear Gene and Greg:

You will recall that I sent a lengthy letter on August 6 about 5 pending grievance cases and my concerns about how those cases were being prosecuted, specifically that these cases were not being given priority and were being treated as "run-of-the-mill" prosecutions which was resulting in their not being prepared properly. I believed then that there was a significant danger of an adverse result. That has now happened in two of those cases. I was informed by Bar counsel this morning that yesterday the referee dismissed the Gary Marks and Amir Fleischer cases on statute of limitations grounds. I have not yet seen the transcript of the hearing (I was told this morning that there was a court reporter and the Bar is going to order a transcript) but from the explanation I received this morning it does not appear

Bar counsel was prepared for the hearing.

Apparently what happened was that on August 20, Marks and Fleischer filed their motion to dismiss and set it for hearing on August 28. It was a speaking motion which misrepresented some of the facts. According to what I was told this morning, Marks and Fleischer also filed some "evidence" via e-mail. I have asked for a copy but as of the time of this message, Bar counsel has not found it. Even though it was a speaking motion, I was not furnished a copy of the motion or the "evidence," was not consulted on the factual allegations and had no knowledge of the hearing. I just happened to find out about the hearing a few days after the hearing by accident (as I stated in my August 6 letter I have been continually left out of the loop on what is going on). SOL should be a simple issue since the grievances were filed well within 6 years of the events involved, in Marks and Fleischer's responses to the grievances neither Respondent made any SOL claim, their co-Respondents specially asked that prosecution be delayed until after the appellate process was over and neither Marks nor Fleischer made any objection to that delay. Even though they are dealing with a novice referee, Bar counsel did not file any of those materials with the referee nor did they file any memorandum in opposition. The referee's order also refers to "case law" but Bar counsel was unable to tell me what cases were cited; obviously none by Bar counsel. And, based on the explanation of the argument that was given to me this morning, Bar counsel was not prepared to refute any of the factual allegations of the motion.

When I found out that this hearing had taken place I called Bar counsel to find out what was going on but was told that I could not talk to Bar counsel for a week (until the following Tuesday) and would have to "trust" that they were competent and capable to do their job. (see below). So far the record of these prosecutions does not support that contention.

This morning when Bar counsel called to tell me about the adverse ruling, it quickly became apparent that there is a serious lack of record problem since nothing has been filed. Bar counsel advised that they would be filing a Motion for Rehearing to make up the record and asked for my help. I, of course will try to help but this comes way too late. The Rehearing will most probably be denied and the Bar will have to appeal the dismission. While Bar counsel expresses confidence that the order will be reversed, I do not share their confidence, especially since the order contains factual findings.

Unfortunately, this is just one of several mistakes that have already occurred. Some are documented in my earlier letter. The record problem which now exists is due in part to the failure of Bar counsel to move to consolidate the cases. I had urged that these Respondents all be joined in a single action as authorized by Rule 3-7.6(g)(1)(C). Bar counsel instead filed the cases as separate cases with the promise that they would move to consolidate them. I have been told repeatedly that such a motion would be filed but 6 months later that has still not happened (although the cases were all set for trial on the same date no order of consolidation has been entered). This is another example of the casual way in which these cases have been handled. Had these cases been consolidated, the record problem would largely not exist. In addition, as a matter of strategy such a motion is the perfect way to educate the referee that at all material times the PIP lawyers acted in concert and that under the law of concerted actions each is responsible for the acts of the others, which should be a key point in the prosecution of these cases. I do not, however, see any indication of a trial strategy.

Since my letter of August 6th there has not been any perceptible change in Bar counsel's approach to these cases. The trial is now just three months away, amended discovery responses still have not been filed and I see no indication that Bar counsel is preparing for trial and, most importantly, cross-examination. I doubt that this conduct would be tolerated in your offices and again I ask that the Bar bring in its most senior and experienced prosecutor or, failing that, appoint an experienced Special Prosecutor under Rule 3-3.3, as has the JQC in the Watson prosecution. "Trust us" is no longer an appropriate response. All the warning signs that each of you have probably seen in the past are present here. There is still time but if action is not taken immediately, it will be too late.

Again I ask your help on getting these cases on the right tract.

you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. I believe that the next meeting is tomorrow afternoon.

We are 10 months from the Court's ruling that was forwarded to the Bar and there has been no real movement. The Rule 5-1.1 (f) violation is literally a no brainer. I am forwarding four e-mails to you that I have sent to Mr. Pascal and the two investigating members (three on 1/13 and one tonight).

Two of the lawyers have now filed for personal bankruptcy (Charles Kane and Harley Kane) and have filed bankruptcy for their law partnership as well. Ms. Laura Watson's testimony from a February 11th deposition regarding her Rule 5-1.1 (f) violation is the fourth e-mail. The other three attorneys involved are Darin Lentner, Gary Marks and Amir Fleischer.

I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@nichmangreer.com]  
Sent: Tuesday, November 25, 2008 4:48 PM  
To: William C. Hearon  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Great Bill. Glad to see things appear to be moving towards whatever the outcome might be. Have a great Thanksgiving also.

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Tuesday, November 25, 2008 4:18 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: Grievance Update

Jay: After our call I had an opportunity to finally speak with Alan Pascal, Esq., bar counsel in the Ft. Lauderdale office. He started out by telling me how involved the case is, how many pieces of correspondence had been filed by counsel for the parties, etc. as a justification for the fact that nothing had occurred in 6 months. I told him that I was unhappy with the lack of any progress and that my experience on a grievance committee was to the contrary. He then told me that the Committee could elect to defer consideration of the grievance until after the completion of the appellate process. He has since forwarded to me a copy of the Bar's Standing Board Deferral Policy. The policy speaks to the fact that the Bar should not allow the grievance procedure to act as a substitute for civil proceedings. In his words, the Bar should not allow one party to use the grievance process to leverage the other party in litigation.

I pointed out to him that the original "grievance" came from Judge Crow's Final Judgment ... which undercut his argument. In addition, I pointed out that one of the major issues was the failure of the 6 attorneys to place in escrow monies that were in dispute, as required under 5-1.1 (f). The funds are to be held in trust until the dispute as to ownership is resolved. I told him that there was no issue that the attorneys were put on notice, no issue that they failed to hold the monies in trust, no issue that they disbursed the funds, no issue that

# Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

"John G. White, III" <jwhite@richmangreer.com>  
02/24/2009 12:50 PM

To  
"William C. Hearon" <bill@williamhearon.com>  
cc  
"Kenneth L. Marvin" <kmarvin@flabar.org>  
Subject  
RE: Grievance Update

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks

From: William C. Hearon [mailto:bill@williamhearon.com]

Sent: Monday, February 23, 2009 7:41 PM

To: John G. White, III

Cc: Lary Stewart

Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. I believe that the next meeting is tomorrow afternoon.

We are 10 months from the Court's ruling that was forwarded to the Bar and there has been no real movement. The Rule 5-1.1 (f) violation is literally a no brainer. I am forwarding four e-mails to you that I have sent to Mr. Pascal and the two investigating members (three on 1/13 and one tonight).

Two of the lawyers have now filed for personal bankruptcy (Charles Kane and Harley Kane) and have filed bankruptcy for their law partnership as well. Ms. Laura Watson's testimony from a February 11th deposition regarding her Rule 5-1.1 (f) violation is the fourth e-mail. The other three attorneys involved are Darin Lentner, Gary Marks and Amir Fleischer.

I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707



From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Wednesday, February 25, 2009 6:31 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Jay: I am sure that you have seen the e-mail from Ken Marvin stating that the grievance committee has decided to postpone consideration of any of the grievances until AFTER the 4th DCA rules on the appeal. Ken told me that to his knowledge this is only the second time in 10 years that a grievance committee has decided to postpone consideration until after an appeal. In this case, the decision makes no sense since it is unlikely that any decision by the 4th DCA will affect the findings of bar violations – even if the decision were reversed.

I told him that this decision is an outrage, especially given that the process started with a Final Judgment entered by Judge Crow directing the Florida Bar to investigate numerous rule violations by these six attorneys. (Our grievance filing came six days later. Ken was not aware that it had started with Judge Crow's ruling.) It is also outrageous that the committee wants to wait before dealing with a clear violation of Rule 5-1.1 (f).

Ken has suggested that we appeal the decision to the Board of Governors and that we put together a package for the Board prior to the first mailing on 3/10 for the meeting on 4/3.

I would like to discuss this with you at your earliest convenience. I am Chairman of the Southern District's Ad Hoc Committee on Court-Annexed Mediation and I will be tied up in a meeting tomorrow 11:00-2:00, but can talk any other time. Friday I have a deposition but can speak with you early in the day or at the end of the day. Let me know what works for you. Thanks. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@richmangreer.com]  
Sent: Tuesday, February 24, 2009 2:40 PM  
To: William C. Hearon  
Subject: RE: Grievance Update

No problem. My pleasure Bill

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Tuesday, February 24, 2009 2:08 PM  
To: John G. White, III  
Subject: RE: Grievance Update

Jay: Thanks. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@richmangreer.com]  
Sent: Tuesday, February 24, 2009 12:50 PM  
To: William C. Hearon  
Cc: Kenneth L. Marvin  
Subject: RE: Grievance Update

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks

**From:** John G. White, III <jwhite@richuangreer.com>  
**Sent:** Tuesday, February 24, 2009 12:45 PM  
**To:** Kenneth L. Marvin <km Marvin@flabar.org>  
**Subject:** FW: Materials for 3:30 phone conference (1 of 3)  
**Attach:** EmbeddedImage0001.gif

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From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:42 PM  
To: John G. White, III  
Subject: FW: Materials for 3:30 phone conference (1 of 3)

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: William C. Hearon  
Sent: Tuesday, January 13, 2009 12:04 PM  
To: 'Michael Gilden'; 'Richard E. Berman'; 'apascal@flabar.org'  
Cc: Larry Stewart  
Subject: Materials for 3:30 phone conference (1 of 3)

Gentlemen: Following-up on our last conversation, I am forwarding (or referencing) the materials which are pertinent to the issue of the respondents' failure to comply with the requirements of Rule 5-1.1(f) and Rule 4-1.15.

Documents and other evidence pertinent to the investigation:

1. Judge Cmww's Final Judgment of April 24, 2008 outlining the facts determined at trial including the fact that the Defendants kept approximately \$11 million for fees out of a settlement of approximately \$14.5 million. The opinion details the actions taken by the Defendants.
2. The Petitioners' letter of April 30, 2008, including the attached letter of July 15, 2004 from our counsel reiterating that the Defendants had been put on notice on June 30, 2004 pursuant to Rule 5-1.1(f) to place all monies taken as fees in trust as ownership to the funds was in dispute.
3. An excerpt from a June 30, 2004 hearing transcript (will be in the second e-mail) in which Judge Winkoff admonished the Defendants not to dissipate the funds as "[t]hey are aware of the bar proscription that says if they do they may be in trouble with the bar for doing that...." After counsel for the Plaintiffs put the Defendants on notice to place in trust the funds that they claimed as fees, Judge Winkoff further told the Defendants "I would suggest to you that you find other monies to pay your bills until the resolution of that and that's just good old common sense, I would hope."
4. Notwithstanding that the Defendants were placed on notice both at the hearing (by counsel and the court) and further placed on notice by the July 15, 2004 letter, the Defendants began distributing the money to themselves. Attached to this e-mail are interrogatory answers from Kane & Kane (Charles Kane and Harley Kane). These interrogatories show that Kane & Kane received \$4,725,000.00 on June 22, 2004 and transferred \$4,000,000.00 to a CD on July 26, 2004. Kane & Kane received the second portion of the settlement monies (\$525,000.00) on August 25, 2004 and then transferred that money out the same day for "fees." As for the \$4,000,000.00, those funds were taken from the CD in three installments ... \$2,000,000.00 on August 11, 2004, \$250,000.00 on November 11, 2004 and \$1,750,000.00 on December 23, 2004. All of the funds were dissipated by the end of 2004, and as you now know, once Judge Crow denied the motions for rehearing, Kane & Kane, Charles Kane and Harley Kane filed for bankruptcy in the face of a \$2,807,726.03 judgment (including prejudgment interest to April 24, 2008) but not including claims for fees, costs and

**From:** John G. White, III <jwhite@richmangroer.com>  
**Sent:** Tuesday, February 24, 2009 12:45 PM  
**To:** Kenneth L. Marvin <kmarvin@flabar.org>  
**Subject:** FW: New Evidence (Testimony) Re: Rule 5-1.1 (f) Violations  
**Attach:** EmbeddedImage0001.gif

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From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:57 PM  
To: John G. White, III  
Cc: Lary Stewart  
Subject: FW: New Evidence (Testimony) Re: Rule 5-1.1 (f) Violations

Jay: Here is the fourth e-mail. Thanks for taking a look at this. We need to have a grievance process that is quick so that complaining parties know that the Bar (rather than a third party in the Department of Business Regulation) can monitor its own. Regards. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: William C. Hearon  
Sent: Monday, February 23, 2009 7:55 PM  
To: 'apascal@flabar.org'; 'Michael Gilden'; 'Richard E. Berman'  
Cc: Lary Stewart  
Subject: New Evidence (Testimony) Re: Rule 5-1.1 (f) Violations

Gentlemen: I understand that the Committee is having a meeting tomorrow. I just received a copy of the deposition of Laura M. Watson, one of the attorneys before your Committee. I have attached the questions that pertain to her failure to keep funds in trust which should be considered along with the other evidence previously provided to you.

It is my understanding that compliance with this Rule is not discretionary. If so, the evidence is clear that the 6 attorneys had notice of the dispute, that all of the funds they held as fees (and subsequently took as fees) were in dispute, and that notwithstanding notice, they took monies as fees, refusing to hold the monies in trust as required by the Rule.

Should you have any questions, feel free to call me tomorrow. Regards. Bill Hearon

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

John G. White, III Shareholder  
One Clearlake Centre Suite 1504250 Australian Avenue South  
West Palm Beach, Florida 33401

Office: 561.803.3500  
Fax: 561.820.1608  
Direct: 561.803.3521  
Email: jwhite@richmangroer.com

**From:** John G. White, III <jwhite@richmangreer.com>  
**Sent:** Thursday, February 26, 2009 9:48 AM  
**To:** Kenneth L. Marvin <kmartin@flabar.org>  
**Subject:** FW: Grievance Update  
**Attach:** mime.htm

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fy

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Wednesday, February 25, 2009 6:31 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Jay: I am sure that you have seen the e-mail from Ken Marvin stating that the grievance committee has decided to postpone consideration of any of the grievances until AFTER the 4th DCA rules on the appeal. Ken told me that to his knowledge this is only the second time in 10 years that a grievance committee has decided to postpone consideration until after an appeal. In this case, the decision makes no sense since it is unlikely that any decision by the 4th DCA will affect the findings of bar violations -- even if the decision were reversed.

I told him that this decision is an outrage, especially given that the process started with a Final Judgment entered by Judge Crow directing the Florida Bar to investigate numerous rule violations by these six attorneys. (Our grievance filing came six days later. Ken was not aware that it had started with Judge Crow's ruling.) It is also outrageous that the committee wants to wait before dealing with a clear violation of Rule 5-1.1 (f).

Ken has suggested that we appeal the decision to the Board of Governors and that we put together a package for the Board prior to the first mailing on 3/10 for the meeting on 4/3.

I would like to discuss this with you at your earliest convenience. I am Chairman of the Southern District's Ad Hoc Committee on Court-Annexed Mediation and I will be tied up in a meeting tomorrow 11:00-2:00, but can talk any other time. Friday I have a deposition but can speak with you early in the day or at the end of the day. Let me know what works for you. Thanks. Bill

William C. Hearon, Esq.

William C. Hearon, P.A.

1 S.E. Third Ave., Suite 3000

Miami, Florida 33131

Ph: 305-579-9813

Fax: 305-358-4707

e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@richmangreer.com]  
Sent: Tuesday, February 24, 2009 2:40 PM

To: William C. Hearon  
Subject: RE: Grievance Update

No problem. My pleasure Bill

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Tuesday, February 24, 2009 2:08 PM  
To: John G. White, III  
Subject: RE: Grievance Update

Jay: Thanks. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@richmangreer.com]  
Sent: Tuesday, February 24, 2009 12:50 PM  
To: William C. Hearon  
Cc: Kenneth L. Marvin  
Subject: RE: Grievance Update

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:41 PM  
To: John G. White, III  
Cc: Lary Stewart  
Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. I believe that the next meeting is tomorrow afternoon.

We are 10 months from the Court's ruling that was forwarded to the Bar and there has been no real movement. The Rule 5-1.1 (f) violation is literally a no brainer. I am forwarding four e-mails to you that I have sent to Mr. Pascal and the two investigating members (three on 1/13 and one tonight).

Two of the lawyers have now filed for personal bankruptcy (Charles Kane and Harley Kane) and have filed bankruptcy for their law partnership as well. Ms. Laura Watson's testimony from a February 11th deposition regarding her Rule 5-1.1 (f) violation is the fourth e-mail. The other three attorneys involved are Darin Lentner, Gary Marks and Amir Fleischer.

I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.

William C. Hearon, P.A.

1 S.E. Third Ave., Suite 3000

Miami, Florida 33131

Ph: 305-579-9813

Fax: 305-358-4707

e-mail: [bill@williamhearon.com](mailto:bill@williamhearon.com)

From: John G. White, III [mailto:[jwhite@richmangreer.com](mailto:jwhite@richmangreer.com)]  
Sent: Tuesday, November 25, 2008 4:48 PM  
To: William C. Hearon  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Great Bill. Glad to see things appear to be moving towards whatever the outcome might be. Have a great Thanksgiving also.

From: William C. Hearon [mailto:[bill@williamhearon.com](mailto:bill@williamhearon.com)]  
Sent: Tuesday, November 25, 2008 4:18 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: Grievance Update

Jay: After our call I had an opportunity to finally speak with Alan Pascal, Esq., bar counsel in the Ft. Lauderdale office. He started out by telling me how involved the case is, how many pieces of correspondence had been filed by counsel for the parties, etc. as a justification for the fact that nothing had occurred in 6 months. I told him that I was unhappy with the lack of any progress and that my experience on a grievance committee was to the contrary. He then told me that the Committee could elect to defer consideration of the grievance until after the completion of the appellate process. He has since forwarded to me a copy of the Bar's Standing Board Deferral Policy. The policy speaks to the fact that the Bar should not allow the grievance procedure to act as a substitute for civil proceedings. In his words, the Bar should not allow one party to use the grievance process to leverage the other party in litigation.

I pointed out to him that the original "grievance" came from Judge Crow's Final Judgment ... which undercut his argument. In addition, I pointed out that one of the major issues was the failure of the 6 attorneys to place in escrow monies that were in dispute, as required under 5-1.1 (f). The funds are to be held in trust until the dispute as to ownership is resolved. I told him that there was no issue that the attorneys were put on notice, no issue that they failed to hold the monies in trust, no issue that they disbursed the funds, no issue that a final judgment has been entered awarding significant sums to us, and no issue as to one firm and two lawyers that they have now filed for bankruptcy. The investigation of this issue would take no time at all and is hardly complicated.

By the end of the conversation, Mr. Pascal indicated that he would not allow the grievance claims to be deferred and that he would assign an investigating member to the grievances at tonight's meeting. I asked that he call me tomorrow with the name of the investigating member. He also said that he would arrange a meeting over the next two weeks so that he and the investigating member can meet with me and Larry Stewart.

So, for the time being, I'd like you to just sit tight and let's see if the case gets assigned and things progress. If the case doesn't get assigned, I'll send you a detailed outline of the case and the issues.

Thanks, and I'll keep you updated. Happy Thanksgiving. Bill

William C. Hearon, Esq.

William C. Hearon, P.A.

1 S.E. Third Ave., Suite 3000

Miami, Florida 33131

Ph: 305-579-9813

Fax: 305-358-4707

e-mail: [bill@williamhearon.com](mailto:bill@williamhearon.com)

John G. White, III  
Shareholder  
One Clearlake Centre  
Suite 1504  
250 Australian Avenue South  
West Palm Beach, Florida 33401

Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
[aquintel@flabar.org](mailto:aquintel@flabar.org)

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From: Larry Stewart <[lstewart@stflaw.com](mailto:lstewart@stflaw.com)>  
To: 'Adria Quintela' <[aquintel@flabar.org](mailto:aquintel@flabar.org)>  
Date: 10/07/2013 01:46 PM  
Subject: RE: Addendum to M/Rehearing

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Got it. Why wouldn't you want this neophyte country court judge to know that a 5<sup>th</sup> DCAQ judge has denied a M/Dismiss that was based in part of a claim that the SOL expired? You wouldn't be claiming that the ruling was res judicata, merely informative.

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.E. Third Avenue, Suite 3000  
Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

**From:** Adria Quintela [<mailto:aquintel@flabar.org>]  
**Sent:** Monday, October 07, 2013 1:40 PM  
**To:** Larry Stewart  
**Cc:** William C. Hearon  
**Subject:** Fw: Addendum to M/Rehearing

Adria E. Quintela  
Chief Branch Discipline Counsel



November 5<sup>th</sup> at 1 S.E. 3<sup>rd</sup> Avenue, Miami, Florida

Please get back to be on these matters as soon as possible.

VTY

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.E. Third Avenue, Suite 3000  
Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

**From:** Larry Stewart  
**Sent:** Friday, October 04, 2013 5:38 PM  
**To:** Larry Stewart; 'Ghenete Wright Muir'; 'Alan Pascal'; 'Adria Quintela'  
**Cc:** William C. Hearon; 'Todd Stewart'; Emily Sanchez  
**Subject:** RE: Your deposition

Date in letter should be 2007, not 2003.

**From:** Larry Stewart  
**Sent:** Friday, October 04, 2013 3:06 PM  
**To:** Ghenete Wright Muir; 'Alan Pascal'; Adria Quintela  
**Cc:** William C. Hearon; Todd Stewart  
**Subject:** FW: Your deposition

Both Bill Hearon and I have received requests for depo dates from Tozian's office. The Oct dates are no good for Bill. We can tentatively do the dates in Nov but there should be some understandings about the scope of the deops. Allowing them free reign plays into their plans to re-try the underlying case. Also, assuming that the cases are consolidated, we should only be subject to depositions one time. I suggest that you send them this letter:

Dear Mr. Tozian:

Mr. Stewart and Mr. Hearon have informed us that you have asked them for deposition dates. Before proceeding further, I would like

From: Adria Quintela  
To: Larry Stewart  
Bcc: Kenneth L. Marvln  
Subject: Re: Kanes M/SJ  
Date: 10/05/2013 07:12 PM

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Larry:  
We appreciate and value your help. As I have mentioned, the complainant in this matter is The Florida Bar. We must and should submit our own work product. I value your input and do not question your abilities, but you are just going to have to rely in what Ghenete, Alan and I submit to the referee.  
I cannot have you write our motions, our memorandum, nor do I feel comfortable submitting a document to the referee that is signed by us yet drafted by you.

We will submit your affidavit and Sammy's but our work has to be our own without your approval or revisions. Thank you for your anticipated understanding.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintela@flabar.org

-----Larry Stewart <lstewart@stflaw.com> wrote: -----

-----BEGIN EMAIL-----  
To: 'Adria Quintela' <aquintela@flabar.org>  
From: Larry Stewart <lstewart@stflaw.com>  
Date: "10-05-2013" "07:54AM"  
Subject: Kanes M/SJ  
-----END EMAIL-----

Adria: I need to talk to you ASAP. As you probably know I have been working on a Memo in Opp to the Kanes M/SJ for over a week. Last Tue I sent a draft of that Memo - which incorporated research from Alan and Ghenete -- noting that it still needed to be updated for Sammy Cacciatore's aff't (which at that time was not yet done).

Yesterday I sent an updated version of the Memo which had the references to the Cacciatore aff't plus changes/corrections in the legal argument on the role of the underlying judgments (I had done add'l research) and typo and grammatical fixes. It was then that I first learned - quite by accident -- that Ghenete had made a "lot of changes" to the original draft.

I am very concerned about a "lot of changes" to the Memo. Like the SOL issue, if properly presented this should be a slam dunk winner. However, neither Ghenete nor Alan have yet to interview us or learn the underlying facts, especially all the distortions of the PIP lawyers and why they are wrong. In addition, the Memo lays out all the legal reasons why the M/SJ should be denied. Changes to the Memo could have the inadvertent effect of either abandoning key legal points or taking factual positions that could prove to be adverse down the road.

I don't have a problem with non-substantive changes but if there are any substantive changes it would be a huge mistake. We now know that the referee is quite capable of making very erroneous decisions. If he grants this motion it is imperative that the record before the Supreme court reflect that we preserved all arguments and had the facts right.

I would like to go over the changes to the Memo and, if substantive, discuss them with you. I can be reached at 305-799-0163.

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

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From: Adria Quintela  
To: Larry Stewart  
Cc: Alan Pascal; Adria Quintela; Ghenete Wright Muir; Emily Sanchez; William C. Hearon; Todd Stewart  
Subject: RE: Draft Response to Kane's Motion to Strike  
Date: 09/22/2013 09:27 PM

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Thank you. Appreciate you taking the time.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Pt. Lauderdale  
(954) 835-0233  
(954) 835-0133 fax  
aquintel@flabar.org

-----Larry Stewart <lstewart@stflaw.com> wrote: -----

\*\*\*\*\*  
To: 'Alan Pascal' <APascal@flabar.org>  
From: Larry Stewart <lstewart@stflaw.com>  
Date: "09-22-2013" "03:17PM"  
Cc: Adria Quintela <aquintel@flabar.org>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Emily Sanchez <ESanchez@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, "Todd Stewart" <todd@trialcounselor.com>  
Subject: RE: Draft Response to Kane's Motion to Strike  
\*\*\*\*\*

My suggestions attached in redline.

From: Alan Pascal [mailto:APascal@flabar.org]  
Sent: Thursday, September 19, 2013 2:37 PM  
To: Larry Stewart  
Cc: Adria Quintela; Ghenete Wright Muir; Emily Sanchez  
Subject: Draft Response to Kane's Motion to Strike

Hi Larry,

Please read our draft response to Kane's motion to strike. Please feel free to make any suggested edits or comments.

Sincerely,

---

Alan A. Pascal  
Senior Bar Counsel  
The Florida Bar  
Lake Shore Plaza II, Suite 130  
1300 Concord Terrace  
Sunrise, Florida 33323  
Tel. (954) 835-0233  
Fax (954) 835-0133  
apascal@flabar.org<mailto:apascal@flabar.org>

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[attachment(s) kane response to motion to strike.doc removed by Adria Quintela/The Florida Bar]  
Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

**From:** Larry Stewart  
**To:** 'APascal@flabar.org'; Ghenete Wright Muir; Ghenete Wright Muir  
**Cc:** William C. Hearn; Todd Stewart  
**Subject:** M/Rehearing  
**Date:** 09/16/2013 09:56 AM  
**Attachments:** marks fleischer motion for rehearing.doc

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Attached are my thoughts on the M/Rehearing. I started redlining your draft but it became too much and too confusing. As you will see, I re-ordered certain of the points – for example, moving up the erroneous statement about your position on the SOL to the first point. I added 1 new point and beefed up others but all your points are still there even though the form might be different. There are still a number of things that need to be filled in which are highlighted in yellow.

I will be shortly sending you my affidavit. There are a bunch of attachments to it which I will probably send in a separate message.

A few things to note about this motion:

1. Because the cases are not yet consolidated, you need to file two separate motions, one in each case.
2. Under the Rehearing Rule 1.530(c) my aff't must be filed with the M/Rehearing
3. I eliminated references to M/Reconsideration and Relief from Judgment. We cannot meet the test for Relief from judgment and Reconsideration is duplicative of Rehearing. Using those terms confuses the issue.
4. Please check and make sure the Rule 3-7.4(e) and the Standing Bd of Govs policy re deferral were both in effect at all times of these cases. There was some suggestion in the hearing that one of both weren't and that they only were enacted later.
5. Re the sequence of events on deferral – pp 7 – 8 – my file shows that Bar counsel made the initial decision. We then asked for Bd of Govs review and the Bd concurred. Do I have that correct?
6. For some reason there is a formatting problem with the footnotes in the text. They appear as numbers rather than footnotes. I have highlighted them in yellow for ease of finding. I assume you all can fix that.
7. Please review carefully to make sure that I didn't misstate something about the timing of events.

Please also review carefully for grammar, punctuation, spelling, etc.

From: Adria Quintela  
To: Larry Stewart  
Cc: Adria Quintela; 'APascal@flabar.org'; Ghenete Wright Muir; William C. Hearon; Todd Stewart  
Subject: RE: Charles Kane, TFB File No. 2008-51,559  
Date: 09/15/2013 09:03 AM

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Already working on that...thanks.

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintela@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

\*\*\*\*\*  
To: 'Adria Quintela' <aquintela@flabar.org>, 'APascal@flabar.org' <APascal@flabar.org>, 'Ghenete Wright Muir' <GWrightMuir@flabar.org>  
From: Larry Stewart <lsstewart@stfblaw.com>  
Date: "09-14-2013" "11:25AM"  
Cc: 'William C. Hearon' <bill@williamhearon.com>, 'Todd Stewart' <Todd@trialcounselor.com>  
Subject: RE: Charles Kane, TFB File No. 2008-51,559  
\*\*\*\*\*

The law cited in this M/Strike is basically right but off point. You have not listed the judges to testify about either the meaning of their decisions nor their mental process in arriving at those decisions. Rather they are listed to testify about the false claims made before them and, in the case of Judge Kimball, the violation of his order. That is proper.

I suggest that you file a memo of Law on this since the referee obviously does not get it and might be prone to grant the motion.

From: Emily Sanchez [mailto:ESanchez@flabar.org]  
Sent: Thursday, September 12, 2013 9:00 AM  
To: Larry Stewart  
Subject: Charles Kane, TFB File No. 2008-51,559  
Importance: High

Respondent's Motion to Strike Witnesses 09/11/2013

\*\*\*\*\*  
Emily Sanchez  
Assistant to Ghenete Wright Muir  
Lawyer Regulation - Fort Lauderdale  
ph. (954) 835-0233 ext. 4124  
fax (954) 835-0133  
esanchez@flabar.org<mailto:esanchez@flabar.org>

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# RECORDS PRODUCED BY THE FLORIDA BAR

| Tab | Date     | Description   |
|-----|----------|---|
| 1   | 10/12/05 | Third Amended Complaint, <i>Stewart Tilghman Fox &amp; Bianchi, P.A. v. Marks &amp; Fleischer, P.A.</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida |
| 2   | 04/24/08 | Final Judgment, <i>Stewart Tilghman Fox &amp; Bianchi, P.A. v. Kane &amp; Kane</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida                      |
| 3   | 04/30/08 | Initial Complaint (received 05/09/08)   |
| 4   | 06/26/08 | Letter from The Florida Bar (Alan Pascal) to Laura Watson   |
| 5   | 07/01/08 | Letter from Peter Goldman to The Florida Bar (Alan Pascal)  |
| 6   | 09/04/08 | Letter from Larry Stewart and William Hearon to The Florida Bar (Alan Pascal) re: reply to responses of Respondents   |
| 7   | 11/12/08 | Letter from Larry Stewart to The Florida Bar (Alan Pascal) re: trial court's denial of post-trial motions   |
| 8   | 11/12/08 | Letter from Larry Stewart to The Florida Bar (Alan Pascal)  |
| 9   | 11/14/08 | Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (without enclosures)  |
| 10  | 11/14/08 | Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (with enclosures)   |
| 11  | 11/24/08 | Letter from Larry Stewart to The Florida Bar (Alan Pascal)  |
| 12  | 04/13/09 | Letter from The Florida Bar (Alan Pascal) to William Hearon   |
| 13  | 10/01/10 | Letter from Larry Stewart to The Florida Bar (Alan Pascal)  |
| 14  | 01/11/11 | Consolidated Answer Brief of Appellees and Initial Brief (Cross-Appeal)   |
| 15  | 08/30/11 | Consolidated Cross-Reply Brief of Appellees/Cross-Appellants  |
| 16  | 02/29/12 | Fourth DCA Opinion  |
| 17  | 05/11/12 | Letter from William Hearon to The Florida Bar (Ghenete Muir)  |
| 18  | 05/16/12 | Letter from Larry Stewart to The Florida Bar (Ghenete Muir)   |

| Tab | Date              | Description   |
|-----|-------------------|---|
| 19  | 05/18/12          | Letter from William Hearon to The Florida Bar (Ghenete Muir)                                  |
| 20  | 05/25/12          | Notice of Grievance Committee Review  |
| 21  | 06/06/12          | Certified Mail Receipt for mail from The Florida Bar to Peter Goldman                         |
| 22  | 06/07/12          | E-mail from Ghenete Muir to Adam Rabinowitz re: extension                                     |
| 23  | 06/07/12          | E-mails between Ghenete Muir and Adam Rabinowitz  |
| 24  | 06/07/12          | E-mail from Adam Rabinowitz to Ghenete Muir attaching Peter Goldman's 08/11/08 correspondence |
| 25  | 06/07/12-07/16/12 | E-mail string between Adam Rabinowitz, Peter Goldman, and Ghenete Muir                        |
| 26  | 06/08/12          | Letter from Larry Stewart to The Florida Bar (Ghenete Muir)                                   |
| 27  | 07/16/12          | Laura Watson's Response to Complaint  |
| 28  | 08/10/12          | Letter from Larry Stewart and William Hearon to Grievance Committee                           |
| 29  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (1 of 6)                       |
| 30  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (2 of 6)                       |
| 31  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (3 of 6)                       |
| 32  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (4 of 6)                       |
| 33  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (5 of 6)                       |
| 34  | 08/10/12          | E-mail from William Hearon to Ghenete Muir attaching documents (6 of 6)                       |
| 35  | 10/02/12          | Amended Notice of Grievance Committee Review  |
| 36  | 10/12/12          | Second Amended Notice of Grievance Committee Review (without exhibits)                        |

| Tab | Date     | Description   |
|-----|----------|---|
| 37  | 10/12/12 | Second Amended Notice of Grievance Committee Review (with exhibits)   |
| 38  | 10/22/12 | Notice of Finding of Probable Cause for Further Disciplinary Proceedings  |
| 39  | 10/22/12 | Letter from Ghenete Muir to Peter Goldman re: notice of finding of probable cause   |
| 40  | 10/22/12 | Letter from Ghenete Muir to William Hearon and Larry Stewart re: notice of finding of probable cause  |
| 41  | 11/19/12 | Letter from Ghenete Muir to Peter Goldman re: new Designated Reviewer   |
| 42  | 11/20/12 | Letter from Larry Stewart and William Hearon to The Florida Bar (John Berry)  |
| 43  | 11/28/12 | Letter from Larry Stewart and William Hearon to Michael Schneider (Florida Judicial Qualifications Commission) enclosing complaint against Laura Watson |
| 44  | 12/26/12 | Letter from The Florida Bar (Kenneth Marvin) to the Florida Judicial Qualifications Commission  |
| 45  | 01/30/13 | Letter from The Florida Bar (Michele Wright) to Julio Gonzalez, Jr. re: public records request  |
| 46  | 09/16/13 | Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction   |
| 47  | 09/20/13 | Judicial Qualifications Commission's Response to Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction                      |
| 48  | 09/30/13 | Memorandum of Law in Response to the JQC's Response to Judge Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction                         |
| 49  | 10/03/13 | JQC's Order on Pending Motions  |
| 50  | 11/12/13 | Subpoena for and Notice of Taking of Videotaped Deposition Duces Tecum of Non-Party Ghenete Wright Muir   |
| 51  | 11/14/13 | Letter from Robert Sweetapple to Miles McGrane, III   |



**ASSERTION OF PRIVILEGE BY THE FLORIDA BAR  
Regarding The Florida Bar File No. 2008-51,564 (17B)**

| <b>DATE</b> | <b>To</b>          | <b>From</b>         | <b>Description</b>          | <b>Privilege Asserted</b>  |
|-------------|--------------------|---------------------|-----------------------------|--|
| 5/8/08      |                    | Don Spangler        | Internal handwritten notes. | Work Product<br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 5-13-08     | Branch Bar Counsel | Theodore Littlewood | Internal Memorandum.        | Work Product<br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 6-11-08     | AAP                | William Flannagan   | Internal Memorandum.        | Work Product<br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 6-26-08     | File               | Michele Wright      | Internal casenote to file.  | Work Product<br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 4-6-09      | AAP                | Kenneth Marvin      | Internal Memorandum.        | Work Product<br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 6-7-12      | File               | Ghenete Wright Muir | Internal casenote to file.  | Work Product<br>Confidential pursuant to Florida                 |

|          |            |                     |                            |  |
|----------|------------|---------------------|----------------------------|--|
|          |            |                     |                            | Bar Rules 3-7.1  |
| 7-17-12  | File       | Ghenete Wright Muir | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 7-20-12  | File       | M. Casco            | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 7-20-12  | E. Sanchez | M. Casco            | Internal Memorandum        | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File       | Emily Sanchez       | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File       | Emily Sanchez       | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File       | Emily Sanchez       | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File       | Emily Sanchez       | Internal casenote to file. | Work Product   |

|          |      |                     |                            |  |
|----------|------|---------------------|----------------------------|--|
|          |      |                     |                            | Confidential pursuant to Florida Bar Rules 3-7.1                     |
| 10-12-12 | File | E. Sanchez          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File | E. Sanchez          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File | E. Sanchez          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-12-12 | File | E. Sanchez          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-15-12 | File | Ghenete Wright Muir | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 10-19-12 | File | Grievance Committee | GC Disposition Sheet       | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |

|          |  |                        |                            |  |
|----------|--|------------------------|----------------------------|--|
| 11-14-12 | File   | Angela J. Brown        | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-15-12 | File   | Michele Wright         | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-15-12 | File   | Holly Carullo          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-15-12 | File   | Kenneth L. Marvin      | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-16-12 | File   | Ghenete Wright<br>Muir | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-16-12 | Adele Stone<br>Adria Quintela<br>Ghenete Wright<br>Muir<br>Emily Sanchez | Michael Greenberg      | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-16-12 | Kenneth Marvin   | Adria Quintela         | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida                 |

|          |   |                         |                            |   |
|----------|---|-------------------------|----------------------------|---|
|          |   |                         |                            | Bar Rules 3-7.1   |
| 11-20-12 | Adria Quintela  | Ghenete Wright Muir     | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 11-27-12 | John T. Berry; Ghenete Wright Muir; Alan Pascal and Emily Sanchez | Adria Quintela          | Internal e-mail.           | Attorney-Client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 11-27-12 | Ghenete Wright Muir; Alan Pascal and Emily Sanchez                | Adria Quintela          | Internal e-mail.           | Attorney-Client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| Dec. 12  | Ghenete Wright Muir and Adria Quintela                            | Cheryl Soler, Paralegal | Internal Memorandum.       | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 12-6-12  | File  | Emily Sanchez           | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 12-13-12 | Adele Stone; Jay Cohen; Ghenete Wright Muir; Alan                 | Adria Quintela          | Internal email.            | Attorney-client   |

|          |  |               |                            |   |
|----------|--|---------------|----------------------------|---|
|          | Pascal; Emily Sanchez; Alice Cuellar   |               |                            | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 12-14-12 | Adria Quintela; Alice Cuellar; Alan Pascal; Emily Sanchez; Ghenete Wright Muir | Adele Stone   | Internal email.            | Attorney-client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 12-21-12 | File   | EmilySanchez  | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 1-14-13  | Emily Sanchez  | Alan Pascal   | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 1-30-13  | Michele Wright   | Holly Carullo | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 1-31-13  | AEQ  | K. Marvin     | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |

|          |   |                     |                            |   |
|----------|---|---------------------|----------------------------|---|
| 4-18-13  | File  | Michele Wright      | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 6-11-13  | John T Berry; Ken Marvin; Ghenete Wright Muir; Alan Pascal; Emily Sanchez | Adria Quintela      | Internal e-mail.           | Attorney-client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 7-29-13  | Emily Sanchez   | Ghenete Wright Muir | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 8-19-13  | Ghenete Wright Muir; Alan Pascal; Emily Sanchez                           | Adria Quintela      | Internal e-mail.           | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 10-13-13 | Emily Sanchez   | Ghenete Wright Muir | Internal email.            | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 10-24-13 | Emily Sanchez   | Ghenete Wright Muir | Internal email.            | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 10-24-13 | Emily Sanchez   | Ghenete Wright      | Internal email.            | Work Product  |

|          |      |                        |                            |   |
|----------|------|------------------------|----------------------------|---|
|          |      | Muir                   |                            | Confidential pursuant to Florida Bar Rules 3-7.1  |
| 11-21-13 | File | Emily Sanchez          | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 11-22-13 | File | Ghenete Wright<br>Muir | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 11-22-13 | File | Ghenete Wright<br>Muir | Internal casenote to file. | Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1                        |
| 12-4-13  | File | Alan Pascal            | Internal casenote to file. | Attorney Client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |
| 12-5-13  | File | Emily Sanchez          | Internal casenote to file. | Attorney Client<br><br>Work Product<br><br>Confidential pursuant to Florida Bar Rules 3-7.1 |





Fw: Extracted Documents for Case File : 200851561  
Ghenete Wright Muir to: Emily Sanchez

03/06/2013 04:12 PM

## Redacted - Privileged

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

----- Forwarded by Ghenete Wright Muir/The Florida Bar on 03/06/2013 04:11 PM -----

From: "Larry Stewart" <lsstewart@stfbaw.com>  
To: "Ghenete Wright Muir" <GWrightMuir@flabar.org>  
Cc: <APascal@RajtarAndAssociates.com>, "Emily Sanchez" <EmilySanchez@flabar.org>, "William C. Hearon" <bill@williamhearon.com>  
Date: 01/15/2013 10:47 AM  
Subject: RE: Extracted Documents for Case File: 200851561

---

Dear Ghenete: I was able to get this done a little earlier than I anticipated. I am sorry that I couldn't red-line your draft. If I had been able to do that you could have readily seen my suggested changes. Attached is a re-draft of a number of paragraphs. Some merely correct names or times. In that regard my experience is that having a factually correct complaint sends a powerful message to the trial judge. Other changes involve the sequence of events. Still others go to the substance of the facts. In the case of Lentner, para 10 adds what I think is an important fact that was not in the original draft. As you will also see I added a couple of para. containing suggested language that is unique to the other Respondents. What is attached is factually correct version of the events that can be proven from the vast collection of documents that we used in our litigation. There are a few other typos that we can discuss when we talk.

I am in a clinic all this week but can be available any morning from 9am to 10 am your time to discuss this re-draft. I assume you will want a day or so to review the attached. Let me know when you would like to discuss my suggested



changes/corrections. Complaint changes.docx

TFB-004740

Exhibit E

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Friday, November 15, 2013 9:47 AM  
**To:** CN=Ghenete Wright Muir/O=The Florida Bar@FLABAR  
**Subject:** Re: Fw: Watson/JQC

---

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: Ghenete Wright Muir/The Florida Bar  
To: Adria Quintela/The Florida Bar@FLABAR  
Date: 11/15/2013 09:44 AM  
Subject: Fw: Watson/JQC

Hi Adria,

## Redacted - Privileged

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation- Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwrightmuir@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.  
----- Forwarded by Ghenete Wright Muir/The Florida Bar on 11/15/2013 09:42 AM -----

From: Jennifer Erdelyi <jerdelyi@cfllaw.com>  
To: "gwrightmuir@flabar.org" <gwrightmuir@flabar.org>, "aquintel@flabar.org" <aquintel@flabar.org>  
Cc: Elizabeth Finizio <Elizabeth@finiziolaw.com>  
Date: 11/14/2013 10:23 PM  
Subject: FW: Watson/JQC

Ladies:

## Redacted - Privileged

Thanks.  
Jennifer C. Erdelyi, Esq.  
Colodny, Fass, Talenfeld, Karlinsky, Abate & Webb, P.A.  
One Financial Plaza, 23rd Floor

100 Southeast Third Avenue  
Ft. Lauderdale, Florida 33394  
Direct: (954) 332-1768  
Office: (954) 492-4010  
Fax: (954) 492-1144  
jerdelyi@cflaw.com

TMS

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From: Cynthia Bailey <cbailey@sweetapplelaw.com>  
Sent: Thursday, November 14, 2013 5:11 PM  
To: nukes@mcgranelaw.com; Michael Schneider (mschneider@floridajqc.com); lisa@mcgranelaw.com  
Cc: Jennifer Erdelyi; JWLevine@mdpd.com; elizabeth@finiziolaw.com; weiselberg@kolawyers.com; mjones@legalaids.org; cvalbrun@kvllaw.com; attorneygonzalez@gmail.com; Adolfo Pesquera  
Subject: Watson/JQC

Please see attached correspondence from Bob Sweetapple. Thank you.

Very truly yours,

CYNTHIA J. BAILEY  
Certified Paralegal / Florida Certified Paralegal / Florida Registered Paralegal  
Sweetapple, Broeker & Varkas, P.L.  
165 East Boca Raton Road  
Boca Raton, FL 33432  
(561) 392-1230 (t) x. 305  
(561) 394-6102 (f)  
CBailey@sweetapplelaw.com  
www.sweetapplebroeker.com

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[attachment "McGrane.let.11.14.13.pdf" deleted by Adria Quintela/The Florida Bar]

TFB-004838

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Tuesday, October 15, 2013 1:50 PM  
**To:** CN=John T Berry/O=The Florida Bar@FLABAR  
**Subject:** Re: Fw: Fla Bar v. Gary Marks & Amir fliescher Appeal

---

John,

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

**From:** John T Berry/The Florida Bar  
**To:** Adria Quintela/The Florida Bar@FLABAR, Ghenete Wright Muir/The Florida Bar@FLABAR, Alan Pascal/The Florida Bar@FLABAR  
**Date:** 10/15/2013 01:38 PM  
**Subject:** Fw: Fla Bar v. Gary Marks & Amir fliescher Appeal

## Redacted - Privileged

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----- Forwarded by John T Berry/The Florida Bar on 10/15/2013 01:37 PM -----

**From:** David Rothman <dbr@rothmanlawyers.com>  
**To:** "'Kenneth L. Marvin'" <kmarvin@flabar.org>, John T Berry <JBerry@flabar.org>, "'jharkness@flabar.org'" <jharkness@flabar.org>  
**Date:** 10/15/2013 01:23 PM  
**Subject:** RE: Fla Bar v. Gary Marks & Amir fliescher Appeal

Ken, John and Jack,

## Redacted - Privileged

David

David B. Rothman  
Board Certified Criminal Trial Lawyer  
Rothman & Associates, P.A.  
Criminal and Bar Defense  
Suite 2770  
Southeast Financial Center  
200 S. Biscayne Blvd.

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Tuesday, September 17, 2013 3:37 PM  
**To:** CN=Ghenete Wright Muir/O=The Florida Bar@FLABAR  
**Cc:** CN=Emily Sanchez/O=The Florida Bar@FLABAR  
**Subject:** Fw: M&F M/Limine -- pt 3

---

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 09/17/2013 03:36 PM -----

From: Adria Quintela/The Florida Bar  
To: Cheryl Soler/The Florida Bar@FLABAR  
Date: 09/12/2013 11:13 AM  
Subject: Fw: M&F M/Limine -- pt 3

fi

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 09/12/2013 11:13 AM -----

From: Larry Stewart <lsstewart@stflaw.com>  
To: Larry Stewart <lsstewart@stflaw.com>, 'Ghenete Wright Muir' <GWrightMuir@flabar.org>  
Cc: "APascal@flabar.org" <APascal@flabar.org>, "aquintel@flabar.org" <aquintel@flabar.org>, 'Emily Sanchez' <ESanchez@flabar.org>  
Date: 09/12/2013 11:04 AM  
Subject: RE: M&F M/Limine -- pt 3

Here it is.

From: Larry Stewart  
Sent: Monday, August 19, 2013 4:32 PM  
To: Ghenete Wright Muir  
Cc: 'APascal@flabar.org'; aquintel@flabar.org; Emily Sanchez  
Subject: RE: M&F M/Limine -- pt 3

More in connection with pt. 3 below (written so that it can be pasted into your Response to the motion).

Judge Crow and Judge Kimball's findings, albeit in connection with trials involving Marks and Fleischer's co-conspirators, are highly relevant because they describe joint conduct in which Marks and Fleischer acted in concert with the other PIP lawyer Respondents. Indeed, during the trial before Judge Crow, he made a specific ruling to the joint conduct which is attached hereto as Ex. 1. As described by Judge Crow at pp 2 - 11 of the Final Judgment and by Judge Kimball at pp 4 - 17 of the Memorandum Opinion -- and which will be established by the Bar's independent evidence at trial -- all of the Respondents acted jointly in handling the claims of the 441 clients and in secretly settling those claims. Under the concerted action doctrine and/or as joint venturers the acts of each Respondent are imputed to all the other Respondents. Under the

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Wednesday, September 11, 2013 7:40 AM  
**To:** CN=John T Berry/O=The Florida Bar@FLABAR  
**Cc:** CN=Kenneth L. Marvin/O=The Florida Bar@FLABAR  
**Subject:** Re: Fwd: Bar Grievance matters

---

**Redacted - Privileged**

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: John T Berry/The Florida Bar  
To: Kenneth L. Marvin/The Florida Bar@flabar, Adria Quintela/The Florida Bar@flabar  
Date: 09/10/2013 10:16 PM  
Subject: Fwd: Bar Grievance matters

**Redacted - Privileged**

Sent from my iPad

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Begin forwarded message:

From: "Eugene Pettis" <EPettis@hpslegal.com>  
Date: September 10, 2013, 10:14:11 PM EDT  
To: "Gregory W. Coleman" <gwc@bclclaw.com>  
Cc: "John F Harkness" <jharkness@flabar.org>, "jberry@flabar.org" <jberry@flabar.org>, "kmarvin@flabar.org" <kmarvin@flabar.org>, "Gregory W. Coleman" <gwc@bclclaw.com>  
Subject: Re: Bar Grievance matters

**Redacted - Privileged**

Eugene K. Pettis, Esq.  
Haliczer, Pettis & Schwamm, PA

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

On Sep 10, 2013, at 2:02 PM, "Gregory W. Coleman" <gwc@bclclaw.com> wrote:

**Redacted - Privileged**

Regards  
Greg

**From:** CN=Adria Quintela/O=The Florida Bar  
**Sent:** Wednesday, September 11, 2013 10:19 AM  
**To:** CN=Cheryl Soler/O=The Florida Bar@FLABAR  
**Subject:** Fw: Rehearing

---

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

----- Forwarded by Adria Quintela/The Florida Bar on 09/11/2013 10:19 AM -----

From: Larry Stewart <lswstewart@stflaw.com>  
To: Ghenete Wright Muir <GWrightMuir@flabar.org>, Alan Pascal  
<APascal@flabar.org>, Adria Quintela <aquintel@flabar.org>  
Cc: "William C. Hearon" <bill@williamhearon.com>, Todd Stewart  
<todd@trialcounselor.com>  
Date: 09/10/2013 04:47 PM  
Subject: Rehearing

Some initial thoughts for rehearing, not necessarily in order of priority:

1. I would file all of Marks and Fleischer's responses to the grievance and argue that they never raised the SOL before filing their Answers on 4/11/13.
2. I would file all of the responses of all the co-Respondents to the grievance. There are several from Watson and the Kanes which ask for postponement. From that I would argue that the co-respondents asked for postponement until the appellate process was over and neither Marks nor Fleischer ever objected. In fact, they took full advantage of the delay (by continuing to practice). This goes to refute the Order that M & F did nothing to toll the time. I would couple this with the law on concerted action in at least a footnote.
3. I would raise and file if necessary the standing Bar policy re deferring action pending the outcome of underlying litigation. If the referee were correct, it would render the standing Bar policy nonsense.
4. There are a number of factual misstatements in the Ms/Dismiss and in the M & F affidavits. I would argue that this being a M/Dismiss the facts have to be taken from Judge Crow's and Kimball's orders - as plead in the complaints. In that respect, I would argue that the facts, as set forth in both Judge Crow and Judge Kimball's orders, show that at all times material the 6 PIP lawyers were acting in lockstep and concert. See Judge Crow's Final Judgment at pp 2 - 11 and Judge Kimball's Memorandum Opinion at pp 4 - 17. I think this is important because you want to rely on those orders in the coming appeal of the M & F order. Since those orders are incorporated into the complaints against M & F they must be taken as true for purposes of the M/Dismiss. I would also cite the cases holding that such orders are sufficient by themselves to find ethical violations. Relying on the M & F affidavits creates factual issues which cannot be resolved on a M/Dismiss. Indeed the Order concedes that there were "disputed issues of fact" and those cannot be resolved at a M/Dismiss. This is, however, probably a minor point since the referee did not appear to use any of those misstatements. The more difficult problem is that there is no refutation of the factual claims of prejudice. But see below on those points.
5. As far as the destruction of their files and records is concerned, you can make the point that they conceded that they knew the ethical issues existed (were present in the underlying litigation). When they destroyed the files and records - admittedly before the SOL had expired, they did that at their own risk.
6. As far as the "dead witness," her death does not prejudice M & F. They

From: CN=Adria Quintela/O=The Florida Bar  
Sent: Thursday, September 12, 2013 10:46 AM  
To: CN=Emily Sanchez/O=The Florida Bar@FLABAR  
Subject: Re: Appeal

---

## Redacted - Privileged

Adria E. Quintela  
Chief Branch Discipline Counsel  
The Florida Bar  
Lawyer Regulation-Ft. Lauderdale  
(954)835-0233  
(954)835-0133 fax  
aquintel@flabar.org

From: Emily Sanchez/The Florida Bar  
To: Adria Quintela/The Florida Bar@FLABAR  
Date: 09/12/2013 10:34 AM  
Subject: Re: Appeal

## Redacted - Privileged

Emily Sanchez  
Assistant to Ghenete Wright Muir  
Lawyer Regulation - Fort Lauderdale  
ph. (954) 835-0233 ext. 4124  
fax (954) 835-0133  
esanchez@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Adria Quintela/The Florida Bar  
To: Larry Stewart <lstewart@stflaw.com>  
Cc: Alan Pascal <APascal@flabar.org>, "William C. Hearn" <bill@williamhearn.com>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Todd Stewart <todd@trialcounselor.com>, Emily Sanchez/The Florida Bar@FLABAR  
Date: 09/11/2013 01:23 PM  
Subject: Re: Appeal

Larry,  
Pursuant to the rules we can "seek review of a report of referee...within 60 days of the date on which the referee's report is docketed by the Clerk of the Supreme Court of Florida.

The procedure would be to get a Report of Referee, take the case to the Board of Governors and seek approval to appeal, give notice to the respondents of the appeal, and then file our Notice of Intent to Seek Review of Report of Referee.

In this case, there is no Report of Referee yet, just an Order. I suggest we file a Motion for Rehearing, if it is denied we then would need for the referee to sign a Report of Referee finding the respondent not guilty (as he is saying the case is time barred) and the clock would start ticking then.

Adria E. Quintela



**From:** Alan Anthony Pascal <APascal@rajtarandassociates.com>  
**Sent:** Friday, January 11, 2013 12:59 PM  
**To:** <gwnightmuir@flabar.org>  
**Cc:** <apascal@flabar.org>  
**Subject:** FW: Extracted Documents for Case File: 200851561  
**Attach:** Formal Complaint.doc; \_Certification\_.htm

---

## Redacted - Privileged

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]  
Sent: Friday, January 11, 2013 11:32 AM  
To: lsstewart@sfbblaw.com  
Cc: APascal@RajtarAndAssociates.com; Emily Sanchez  
Subject: Extracted Documents for Case File: 200851561  
Importance: High

Good Morning Mr. Stewart,

Please find attached our draft of the complaint. This will be used for Lentner, Marks & Fleischer. We will be using a variation of this for Kane and Kane.

I will be out of the office on Monday. So it would be best to discuss any suggested changes you may have on Tuesday or Wednesday afternoon.

Thank you.

Formal Complaint 12/19/2012

Ghenete Wright Muir  
Bar Counsel  
The Florida Bar  
Lawyer Regulation - Ft. Lauderdale  
Phone: 954-835-0233  
Fax: 954-835-0133  
gwnightmuir@flabar.org - Formal Complaint.doc - \_Certification\_.htm

**From:** CN=Cheryl Soler/O=The Florida Bar  
**Sent:** Monday, September 16, 2013 12:28 PM  
**To:** CN=Alan Pascal/O=The Florida Bar@FLABAR  
**Subject:** Re: Fw: LSS Att't  
**Attach:** L. Stewart Affidavit.docx

---

## Redacted - Privileged

---

Cheryl L. Soler  
Paralegal  
The Florida Bar - Fort Lauderdale Branch  
954-835-0233  
csoler@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Alan Pascal/The Florida Bar  
To: Cheryl Soler/The Florida Bar@FLABAR  
Date: 09/16/2013 11:57 AM  
Subject: Fw: LSS Att't

---

Alan A. Pascal  
Senior Bar Counsel  
The Florida Bar  
Lake Shore Plaza II, Suite 130  
1300 Concord Terrace  
Sunrise, Florida 33323  
Tel. (954) 835-0233  
Fax (954) 835-0133  
apascal@flabar.org

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

----- Forwarded by Alan Pascal/The Florida Bar on 09/16/2013 11:57 AM -----

From: Larry Stewart <lswewart@stflaw.com>  
To: "APascal@flabar.org" <APascal@flabar.org>, "AQuintel@flabar.org" <AQuintel@flabar.org>, 'Ghenete Wright Muir' <GWrightMuir@flabar.org>  
Cc: "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <todd@trialcounselor.com>  
Date: 09/16/2013 10:25 AM  
Subject: LSS Att't

Here is my aff't. I will fed ex a singed copy. Exhibits to follow.

Larry S. Stewart  
Stewart Tilghman Fox Bianchi & Cain, P.A.  
One S.F. Third Avenue, Suite 3000  
Miami, FL 33131  
Telephone (305) 358-6644  
Fax (305) 358-4707

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be

**From:** CN=Kenneth L. Marvin/O=The Florida Bar  
**Sent:** Tuesday, August 6, 2013 12:06 PM  
**To:** CN=Adria Quintela/O=The Florida Bar@FLABAR  
**Cc:** CN=Arne Vanstrum/O=The Florida Bar@FLABAR  
**Subject:** \*Confidential: Fw: Bar grievance matters/Personal & Confidential  
**Attach:** LSS ltr re Bar cases 8-6-13.pdf, EmbeddedImage0001.gif, EmbeddedImage0002.gif

---

## Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399  
----- Forwarded by Kenneth L. Marvin/The Florida Bar on 08/06/2013 12:05 PM  
-----

From: "Gregory W. Coleman" <gwc@bclclaw.com>  
To: "John F Harkness" <jharkness@flabar.org>, "John T Berry" <JBerry@flabar.org>, "Kenneth L. Marvin" <km Marvin@flabar.org>, "Eugene K. Pettis" <EK.Pettis@hpslegal.com>, "Gregory W. Coleman" <gwc@bclclaw.com>  
Date: 08/06/2013 11:57 AM  
Subject: FW: Bar grievance matters/Personal & Confidential

## Redacted - Privileged

Regards  
Greg

Gregory W. Coleman - Attorney at Law  
303 Banyan Boulevard | Suite 400 | West Palm Beach | FL 33401  
Phone: (561) 842-2820 | Fax: (561) 844-6929  
Direct: 561-515-3130  
gwc@bclclaw.com | www.bclclaw.com

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From: Larry Stewart [mailto:lsstewart@stflaw.com]  
Sent: Tuesday, August 06, 2013 11:45 AM  
To: epettis@hpslegal.com; Gregory W. Coleman  
Subject: Bar grievance matters/Personal & Confidential

Dear Gene and Greg: Attached is a letter concerning some pending Florida Bar grievance cases. I have tried to address these matters with the Bar staff but I am now concerned that there is a serious danger that these cases might be lost or compromised. Details are in the attached letter.

**From:** CN=Kenneth L. Marvin/O=The Florida Bar  
**Sent:** Tuesday, February 24, 2009 2:37 PM  
**To:** John G. White, III <jwhite@richmangreer.com>  
**Cc:** CN=John F Harkness/O=The Florida Bar@FLABAR; CN=Rosalyn Scott/O=The Florida Bar@FLABAR; CN=John T Berry/O=The Florida Bar@FLABAR  
**Subject:** RE: Grievance Update  
**Attach:** EmbeddedImage0001.gif; EmbeddedImage0002.gif

---

Jay,

**Redacted - Privileged**

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

"John G. White, III" <jwhite@richmangreer.com>  
02/24/2009 12:50 PM

To  
"William C. Hearon" <bill@williamhearon.com>  
cc  
"Kenneth L. Marvin" <km Marvin@flabar.org>  
Subject  
RE: Grievance Update

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:41 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If

TFB-006184

**From:** CN=Kenneth L. Marvin/O=The Florida Bar  
**Sent:** Tuesday, February 24, 2009 2:52 PM  
**To:** John G. White, III <jwhite@richmangreer.com>  
**Cc:** John T Berry <JBerry@flabar.org>; John F Harkness <jharkness@flabar.org>; Rosalyn Scott <rscott@flabar.org>  
**Subject:** RE: Grievance Update  
**Attach:** EmbeddedImage0001.gif; EmbeddedImage0002.gif; EmbeddedImage0003.gif

---

You're welcome

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

"John G. White, III" <jwhite@richmangreer.com>  
02/24/2009 02:43 PM

To  
"Kenneth L. Marvin" <kmarvin@flabar.org>  
cc  
"John F Harkness" <jharkness@flabar.org>, "Rosalyn Scott" <rscott@flabar.org>,  
"John T Berry" <JBerry@flabar.org>  
Subject  
RE: Grievance Update

## Redacted - Privileged

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]  
Sent: Tuesday, February 24, 2009 2:37 PM  
To: John G. White, III  
Cc: John F Harkness; Rosalyn Scott; John T Berry  
Subject: RE: Grievance Update

Jay,

## Redacted - Privileged

# Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

"John G. White, III" <jwhite@nichmangreer.com>  
02/24/2009 12:50 PM

To  
"William C. Hearon" <bill@williamhearon.com>  
cc  
"Kenneth L. Marvin" <kmarvin@flabar.org>  
Subject  
RE: Grievance Update

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks  
From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:41 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. I believe that the next meeting is tomorrow afternoon.

We are 10 months from the Court's ruling that was forwarded to the Bar and there has been no real movement. The Rule 5-1.1 (f) violation is literally a no brainer. I am forwarding four e-mails to you that I have sent to Mr. Pascal and the two investigating members (three on 1/13 and one tonight). Two of the lawyers have now filed for personal bankruptcy (Charles Kane and Harley Kane) and have filed bankruptcy for their law partnership as well. Ms. Laura Watson's testimony from a February 11th deposition regarding her Rule 5-1.1 (f) violation is the fourth e-mail. The other three attorneys involved are Darin Lentner, Gary Marks and Amir Fleischer.  
I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707

**From:** CN=Kenneth L. Marvin/O=The Florida Bar  
**Sent:** Monday, March 2, 2009 8:15 AM  
**To:** CN=John T Berry/O=The Florida Bar@FLABAR  
**Subject:** Re: Fw: Grievance Update  
**Attach:** EmbeddedImage0001.gif; EmbeddedImage0002.gif

---

## Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel  
Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

John T Berry/The Florida Bar  
03/02/2009 07:50 AM

To  
"Ken Marvin" <km Marvin@flabar.org>  
cc

Subject  
Fw: Grievance Update

## Redacted - Privileged

----- Forwarded by John T Berry/The Florida Bar on 03/02/2009 07:47 AM -----  
Kenneth L. Marvin/The Florida Bar  
02/24/2009 12:37 PM

To  
"John G. White, III" <jwhite@richmangreer.com>  
cc  
"John Berry" <JBerry@flabar.org>, John F Harkness/The Florida Bar@FLABAR,  
Rosalyn Scott/The Florida Bar@FLABAR  
Subject  
Re: FW: Grievance UpdateLink

Jay,

## Redacted - Privileged

Kenneth L. Marvin  
Staff Counsel

TFB-006216

Director, Lawyer Regulation  
651 E. Jefferson Street  
Tallahassee, Florida 32399

"John G. White, III" <jwhite@richmangreer.com>  
02/24/2009 12:37 PM

To  
"John Beny" <JBeny@flabar.org>, "Kenneth L. Marvin" <km Marvin@flabar.org>  
cc

Subject  
FW: Grievance Update

## Redacted - Privileged

From: William C. Hearon [mailto:bill@williamhearon.com]  
Sent: Monday, February 23, 2009 7:41 PM  
To: John G. White, III  
Cc: Larry Stewart  
Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. I believe that the next meeting is tomorrow afternoon.

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I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.  
William C. Hearon, P.A.  
1 S.E. Third Ave., Suite 3000  
Miami, Florida 33131  
Ph: 305-579-9813  
Fax: 305-358-4707  
e-mail: bill@williamhearon.com



**From:** Gregory W. Coleman <gwc@bclclaw.com>  
**Sent:** Tuesday, August 6, 2013 11:58 AM  
**To:** John F Harkness <jharkness@flabar.org>; John T Berry <JBerry@flabar.org>; Kenneth L. Marvin <kmarvin@flabar.org>; Eugene K. Pettis <EK.Pettis@hpslegal.com>; Gregory W. Coleman <gwc@bclclaw.com>  
**Subject:** FW: Bar grievance matters/Personal & Confidential  
**Attach:** LSS ltr re Bar cases 8-6-13.pdf

---

Dear Jack, John and Ken:

**Redacted - Privileged**

Regards  
Greg

bclc  
Gregory W. Coleman - Attorney at Law  
303 Banyan Boulevard | Suite 400 | West Palm Beach | FL 33401  
Phone: (561) 842-2820 | Fax: (561) 844-6929  
Direct: 561-515-3130  
gwc@bclclaw.com | www.bclclaw.com

[IMAGE]

This e-mail contains legally privileged and confidential information intended only for the individual or entity named within the message. Should the intended recipient forward this message to another person or party, that action could constitute a waiver of the attorney-client privilege. If the reader of this message is not the intended recipient, or the agent responsible to deliver it to the intended recipient, you are hereby notified that any review, dissemination, distribution or copying of this communication is prohibited. If this communication was received in error, please notify us by reply e-mail and delete the original message.

From: Larry Stewart [mailto:lsstewart@stflaw.com]  
Sent: Tuesday, August 06, 2013 11:45 AM  
To: epettis@hpslegal.com, Gregory W. Coleman  
Subject: Bar grievance matters/Personal & Confidential

Dear Gene and Greg: Attached is a letter concerning some pending Florida Bar grievance cases. I have tried to address these matters with the Bar staff but I am now concerned that there is a serious danger that these cases might be lost or compromised. Details are in the attached letter. - bclc.gif - bestlawyers.jpg - LSS ltr re Bar cases 8-6-13.pdf

LAW OFFICES OF  
**SWEETAPPLE, BROECKER & VARKAS, P.L.**

DOUGLAS C. BROECKER, P.A.  
44 West Flagler Street, Ste. 1500  
Miami, Florida 33130-6817  
Telephone: (305) 374-5623  
Facsimile: (305) 358-1023

ROBERT A. SWEETAPPLE \*, \*\*  
DOUGLAS C. BROECKER  
ALEXANDER D. VARKAS, JR.  
KADISHA D. PHELPS  
ALEXANDER D. VARKAS, III  
ASHLEIGH M. GREENE

\* BOARD CERTIFIED BUSINESS LITIGATION ATTORNEY  
\*\* BOARD CERTIFIED CIVIL TRIAL ATTORNEY

SWEETAPPLE & VARKAS, P.A.  
20 S.E. 3<sup>rd</sup> Street  
Boca Raton, Florida 33432-4914  
Telephone: (561) 392-1230  
Facsimile: (561) 394-6102

Please Reply To: Boca Raton  
E-Mail:  
rsweetapple@sweetapplelaw.com  
avarkas@sweetapplelaw.com  
ajvarkas@sweetapplelaw.com  
cbailey@sweetapplelaw.com  
dsmith@sweetapplelaw.com

Paralegals:  
Cynthia J. Bailey, CP, FCP, FRP  
Deborah Smith, CP, FRP  
Jamie Arden, FRP

February 27, 2015

**SENT VIA E-MAIL (HMC@bedellfirm.com) AND U.S. MAIL**  
Henry M. Coxe, III, Esquire  
Bedell, Dittmar, Devault, Pillans & Coxe, P.A.  
The Bedell Building  
101 East Adams Street  
Jacksonville, Florida 32202

**Re: Case No.: SC13-1333; Judge Laura M. Watson**

Dear Hank,

Thank you for your email of Tuesday, February 24, 2015. As discussed it appears that there are actually dozens, if not more than one hundred, emails that were not provided pursuant to the previous subpoena. A protective order was obtained by the Bar based on representations of record made by both Bar and JQC counsel at the subject hearing.

The non-produced emails raise legal issues that I am researching. The newly-discovered misconduct seems to implicate Rule 4-3.4: Fairness to Opposing Party and Counsel, Rule 4-4.1: Truthfulness in Statements to Others, Rule 4-3.3: Candor Toward the Tribunal and Rule 4-3.5: Impartiality and Decorum of the Tribunal.

**I. Rule 4-3.3: Candor Toward the Tribunal.**

This rule requires a lawyer to correct a statement of material fact or law previously made to a tribunal. Rule 4-3.3 (a) (1). Furthermore, if the lawyer or lawyers client offers false testimony and the lawyer learns of its falsity, the lawyer must take remedial steps including disclosing this to the tribunal.

At the January 17, 2014 hearing, you represented to the Chair that early in December

2013, for a period of a month, you (and others) spent a significant amount of time with the Florida Bar going through their records and the documents and produced every e-mail communication that related to Mr. Stewart and Judge Watson. You further emphasized the following:

“I don’t think it’s self-serving –that we were making the decisions coming down in favor of Mr. Sweetapple, when in doubt, we would give them to Mr. Sweetapple. It included every e-mail communication to the Florida Bar from Mr. Stewart or other persons in Mr. Stewart's office that related to Judge Watson. It included everything that Judge Watson would have been entitled to had she still been a lawyer in defending against the Bar accusations.”

“...there is nothing in this universe that the Florida Bar essentially has that relates to Judge Watson that hasn’t been produced.”

(Tr. of Hr’g on January 17, 2014, p. 49-50).

The subject deponent, Ghenete Muir, as Bar counsel filed an affidavit where she swore under oath that all the records she has “are confidential pursuant to the Rules Regulating The Florida Bar” and that “all information [she has] relating to Respondent was obtained in connection with [her] representation of The Florida Bar in disciplinary proceedings against Respondent.” *Motion to Quash/Protective Order*, Muir affidavit par. ¶11 and ¶12. There appear to be legions of emails, concealed by the Bar, wherein Muir was either the initiator, direct recipient, or copied, and Judge Watson, her former law firm, and the JQC proceedings were directly mentioned in many of these emails. Many of the emails that Muir failed to produce are dated within the same time-frame as the emails listed on the Bar’s privilege log.

## **II. Rule 4-3.3.**

Once an attorney learns that a violation of the rule occurred, he/she is required to take reasonable remedial measures including disclosing this to the tribunal, which at this point is the Florida Supreme Court. Based on this rule, your previously filed Notice is insufficient. The rule also requires an attorney to disclose the fraudulent nature of a client’s affidavit or testimony to the tribunal. In this case that would be the Florida Supreme Court. Rule 4-3.3(a)(4) and (b). The duties to disclose the violations under this rule “continue beyond the conclusion of the proceeding and apply even if compliance requires disclosure of information otherwise protected by rule 4-1.6 [i.e. confidential information]. The comments to this rule are very instructive and you may want to review them as well as the pertinent case law cited.

## **III. Rule 4-3.5. Impartiality and Decorum to the Tribunal.**

It is a violation of Rule 4-3.5(a) for a lawyer to seek to influence a judge, tribunal or other

decision maker. The emails we recently became aware of are from Larry Stewart lobbying essentially every possible decision maker that composes the Florida Bar, from Bar Presidents and President-elects, Members of the Board of Governors, Executive Committee members, John Harkness, Ken Marvin, Grievance Committee members and their lawyers. Importantly, if such a communication occurs a copy is to be promptly delivered to the opposing counsel or to the adverse party, if not represented by a lawyer, pursuant to Rule 4-3.5(b)(1). At least one Past President of the Florida Bar, who later sat on Judge Watson's JQC investigative panel, appears to have been directly lobbied.

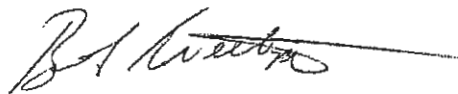
#### **IV. Conclusion**

Based on the foregoing, please consider whether you should immediately file a motion with the Florida Supreme Court to stay the proceedings against Judge Watson until the extent of non-compliance and the depth of any misconduct is known. The previous failure to turn over these emails, which are highly material and were the direct correspondence of Muir, appear intentional. However, at a minimum, these emails have been known to the Bar since the Kane proceeding nearly six (6) months ago, and should have been produced at that time. Therefore, I request that you immediately turn over all emails and/or documents in the Bar's possession that are responsive to my discovery request and notify the Supreme Court as appropriate.

The Bar should also permit our IT Tech to meet and search the computers of the Bar, David Rothman, Ghenete Muir and other Bar representatives in conjunction with the Bar's designated IT person. We now question whether electronic information may have been altered, modified, or destroyed and therefore believe that such a search is necessary.

I look forward to working with you to resolve this matter and to ensure that Judge Watson is afforded the due process that she was previously denied.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Sweetapple", with a long horizontal line extending to the right.

**ROBERT SWEETAPPLE**

RAS:cjb